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Michelle Kasak

January 24, 2018

Norman Brown, et al.

vs.

Anne L. Precythe, et al.

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MISSOURI
CENTRAL DIVISION

NORMAN BROWN, et al,)
)
Plaintiffs,)
)
vs.) Case No. 17-CV-4082
)
ANNE L. PRECYTHE, et)
al,)
)
Defendants.)

CONFIDENTIAL DEPOSITION OF MICHELLE KASAK,
produced, sworn and examined on the 24th day of
January, 2018, between the hours of eight o'clock in
the forenoon and six o'clock in the afternoon of that
day, at the Missouri Attorney General's Office,
Broadway State Office Building, Jefferson City,
Missouri, before Kim D. Murphy, Certified Court
Reporter, within and for the State of Missouri.

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2

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I N D E X

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Direct Examination by Ms. Zimmerman

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25		

1 IT IS HEREBY STIPULATED AND AGREED, by and
2 between counsel for the Plaintiffs and counsel for the
3 Defendants that this deposition may be taken in
4 shorthand by Kim D. Murphy, CCR, and afterwards
5 transcribed into typewriting; and the signature of the
6 witness is expressly waived.

7 * * * *

8 MICHELLE KASAK,
9 of lawful age, produced, sworn and examined on behalf
10 of the Plaintiffs, deposes and says:

11 DIRECT EXAMINATION

12 QUESTIONS BY MS. ZIMMERMAN:

13 Q. Could you please tell us your full name.

14 A. Kathleen Michelle Kasak.

15 Q. Ms. Kasak, my name is Sara Zimmerman. I
16 introduced myself to you a few minutes ago before the
17 deposition started. I'm the attorney for Mr. Brown,
18 Mr. McElroy, Mr. Roland and Mr. Roberts.

19 Do you understand that?

20 A. Yes.

21 Q. We're going to take your deposition today
22 in a lawsuit that my clients filed against members of
23 the parole board?

Do you understand that?

25 A. Yes.

1 Q. Can you tell me your date of birth?

2 A. **7-29-67.**

3 Q. And your current address?

4 A. [REDACTED],

5 [REDACTED].

6 Q. Have you ever given a deposition before?

7 A. **No.**

8 Q. Are you currently employed by the Missouri
9 Department of Corrections?

10 A. **Yes.**

11 Q. So Mr. Crane and Mr. Spillane may have
12 explained this to you, but there are some grounds I'm
13 going to cover that we need to follow to have a clear
14 record of what happens here today.

15 I'm going to ask you questions, and it's
16 your job to provide truthful complete and responsive
17 answers.

18 Will you do that today?

19 A. **Yes.**

20 Q. The court reporter is taking down
21 everything we say. It's important that you provide
22 verbal responses, okay?

23 A. **Yes.**

24 Q. And we can't talk over each other, okay?

25 A. **Yes. I understand.**

1 Q. We also need you to only answer the
2 questions that you understand, okay?

3 **A. Yes.**

4 Q. If you don't understand one of my
5 questions, please stop me. I will repeat it, rephrase
6 it, anything I can do to make sure it's clear.

7 Do you understand that?

8 **A. Yes.**

9 Q. If I ask you a question and you answer the
10 question, I'm going to assume that you understood it,
11 correct?

12 **A. Yes.**

13 Q. Anything about your physical, emotional or
14 mental condition that would prevent you from
15 understanding my questions?

16 **A. No.**

17 Q. Anything that will prevent you from
18 providing complete, truthful and responsive answers
19 today?

20 **A. No.**

21 Q. If you need a break, we can take one, so
22 long as there's not a question pending, all right?

23 **A. Okay.**

24 Q. Did you review any documents in preparation
25 for your deposition today?

1 **A. Yes.**

2 Q. What documents did you review?

3 **A. What Andrew sent me. The subpoena. The**
4 **materials that I sent him electronically.**

5 Q. Anything else?

6 **A. No.**

7 Q. And we discussed this earlier, but you
8 brought some documents with you in response to the
9 subpoena, correct?

10 **A. Yes.**

11 Q. How did you locate these documents?

12 **A. I had them stored electronically.**

13 Q. In your email?

14 **A. No. In my computer on my personal drive.**

15 Q. Are you currently married?

16 **A. No.**

17 Q. Have you ever been convicted or pled guilty
18 to any felony?

19 **A. No.**

20 Q. Have you ever been convicted or pled guilty
21 to any misdemeanor involving fraud or dishonesty?

22 **A. No.**

23 Q. Have you ever sued anyone in the past?

24 **A. No.**

25 Q. Have you ever been sued in the past?

1 **A.** **No.**

2 Q. Did you attend high school?

3 **A.** **Yes.**

4 Q. Which one?

5 **A.** **Linn, Missouri. Linn High School.**

6 Q. Did you graduate?

7 **A.** **Yes.**

8 Q. What year?

9 **A.** **'85.**

10 Q. Did you attend college or university after
11 that?

12 **A.** **Yes.**

13 Q. Which one?

14 **A.** **I went to State Fair Community College in**
15 **Sedalia, and CMSU -- that's what it was called then --**
16 **in Warrensburg.**

17 Q. And what did you study?

18 **A.** **Criminal justice.**

19 Q. Did you study anything else? Any minors?

20 **A.** **No.**

21 Q. Did you graduate?

22 **A.** **Yes.**

23 Q. What year?

24 **A.** **I got my master's in '91. I believe.**

25 Q. So you got a criminal justice bachelor's?

1 **A.** Uh-huh. And then my master's in CJ
2 **administration.**

3 **Q.** And where did you get your master's degree
4 from?

5 **A.** **CMSU.**

6 **Q.** Did any of your areas of study focus on
7 psychology?

8 **A.** **Yes, I had psychology classes.**

9 **Q.** How about on adolescent development?

10 **A.** **No.**

11 **Q.** Have you received any other formal
12 education beyond these degrees?

13 **A.** **No.**

14 **Q.** Have you ever served in the military?

15 **A.** **No.**

16 **Q.** After college, where did you work?

17 **A.** **For the State Social Services, Child
18 Support Enforcement.**

19 **Q.** Was that your job title?

20 **A.** **Child support enforcement technician.**

21 **Q.** And what were your job responsibilities in
22 that role?

23 **A.** **Locating non-paying parents. Setting them
24 up with payment plans to pay their arrearages and
25 current child support.**

1 Q. And after that position, where did you work
2 after that?

3 **A. I came to work for the Department of**
4 **Corrections where I'm at now.**

5 Q. And when did you start at the Department of
6 Corrections?

7 **A. In 1994.**

8 Q. So you were at the Social Services position
9 until 1994?

10 **A. '89 to '94.**

11 Q. And what was your job title when you
12 started at the Department of Corrections?

13 **A. Probation and parole officer.**

14 Q. And as the probation and parole officer,
15 what were your job responsibilities?

16 **A. I was an institutional probation and parole**
17 **officer. So I provided reports to the parole board,**
18 **assessed offenders for release. And updated the board**
19 **on offenders' progress and programming. Prepared**
20 **offenders for release.**

21 Q. What do you mean by programming? Were you
22 responsible for implementing program?

23 **A. No.**

24 Q. Or creating programming?

25 **A. No. No. I reported to the board what**

1 **programming the offenders completed, participated in,**
2 **to prepare them for their release.**

3 Q. Was there any experience or other
4 requirements for your position as an IPO?

5 **A. Other than the training provided by our**
6 **department, no.**

7 Q. And what training was provided?

8 **A. Four weeks of training by our training**
9 **academy.**

10 Q. And what kind of things are taught in that
11 training academy?

12 **A. Substance abuse issues.**

13 **Sex offender. You know, issues that**
14 **offenders may have.**

15 **Report writing.**

16 **Constitutional law.**

17 **Interviewing skills.**

18 **Offender staff relations. So they know how**
19 **to communicate with offenders.**

20 **The assessment tools that we used then,**
21 **24 years ago. Assessment -- I'm sure there's more. I**
22 **can't remember every class.**

23 Q. But generally it was to provide tools for
24 you to be able to do your job and interact with
25 offenders?

1 **A. Yes.**

2 Q. And complete reports?

3 **A. Uh-huh. Correct.**

4 Q. And do you recall who your supervisor was
5 when you were an IPO?

6 **A. When I first started at the Boonville
7 Correctional Center it was John Boyden.**

8 Q. And what was his job title?

9 **A. District administrator.**

10 Q. And after your position as an IPO, did you
11 change job titles within the Department of Corrections?

12 **A. Yes. I did.**

13 Q. And what was your next job position?

14 **A. Oh, regional training coordinator.**

15 Q. And what were your job responsibilities as
16 a regional training coordinator?

17 **A. I coordinated all the training for the
18 institutional parole officers, and I facilitated
19 training for all the institutional parole officer
20 around the state, and insured that they completed
21 training, the required training.**

22 Q. Was there required training beyond the
23 four-week academy that we just discussed?

24 **A. Yes. Institutional parole officers go to
25 an additional three-day training. More hands-on skills**

1 **for what they do, the types of reports they do.**

2 Q. And do they do that once? Or is that
3 annual?

4 **A. Currently, we do that twice a year.**

5 Q. So each IPO has to attend twice a year?

6 **A. No. Only when they're new. It's just part**
7 **of the new staff training basically, yeah. We try to**
8 **get the newer ones in. We only have a class because**
9 **there's not enough people really to conduct it twice a**
10 **year.**

11 Q. And when you moved into this new position
12 did you have to attend any additional training?

13 **A. Yes. Trainer skills development is one.**
14 **If you're going to be delivering training to staff.**

15 Q. So beyond coordinating the trainings, were
16 you actually conducting these trainings?

17 **A. Yes.**

18 Q. All of them?

19 **A. Pretty much.**

20 Q. And you conducted these trainings just
21 based on your experience as an IPO; is that correct?

22 **A. Policy. What policy dictated.**

23 Q. And how did you determine that?

24 **A. I used the policy for when reports were due**
25 **to tell the -- what's to be included in a report. Our**

1 **assessment tools. That came strictly from policy and**
2 **procedure.**

3 Q. So you were providing guidance based on the
4 policies and procedures?

5 **A. Yes, correct.**

6 Q. And as regional training coordinator who
7 was your supervisor?

8 **A. Vickie Meiers.**

9 Q. And what was her job title?

10 **A. What mine is now, regional administrator.**

11 Q. Did you have any other positions between
12 being a regional training coordinator and being the
13 regional administrator?

14 **A. Yes. Several.**

15 Q. So after you're regional training
16 coordinator, what was your next position?

17 **A. Unit supervisor.**

18 Q. And what were your job responsibilities as
19 unit supervisor?

20 **A. I conducted audits for both institutional**
21 **parole officers and field probation and parole**
22 **officers. Quality assurance. Basically, compliance of**
23 **policy.**

24 Q. And so what exactly were you auditing?

25 **A. That reports were being done in a timely**

1 manner. The elements required in the reports were
2 there.

3 Q. Were you assessing whether or not the
4 information in there was accurate or complete based on
5 the documents provided, or interviews with offenders?

6 A. Probably more timelines. There were
7 timelines that were followed. Looking at particular
8 components that needed to be in the reports.

9 But can you repeat the last part of your
10 question?

11 Q. Sure. Let me rephrase.

12 So the audits were more focused on the form
13 of the report?

14 A. Yes. Correct.

15 Q. They were not focused on the substance of
16 the report?

17 A. Correct, yes.

18 Q. Aside from conducting these audits, did you
19 have any other responsibilities as unit supervisor?

20 A. Yes. Fiscal notes. Administrative
21 rulemaking. And I monitored several different grants
22 and compliance.

23 Q. And so I believe the first thing you said
24 was fiscal notes?

25 A. Yes. I reviewed fiscal notes and

1 determined the impact to our division so we'd be able
2 to respond to those, the fiscal notes.

3 Q. And you're going to have to bring me up to
4 speed; what's a fiscal note?

5 A. Oh. Well, legislative -- the Legislature
6 makes, you know, they propose changes. And those would
7 be sent -- they're sent to the different departments to
8 show them the impact. Like, would there be a fiscal
9 impact from those.

10 Q. And so you were reviewing them before they
11 became law or after?

12 A. Yes. Before. Correct.

13 Q. And you also mentioned that you were
14 involved with administrative rulemaking?

15 A. (The witness nodded her head.)

16 Q. Could you describe what that entailed?

17 A. Some of our policies and procedures are
18 also administrative rules with the State. So with
19 policy revisions, I made updates to our administrative
20 rules. Our department's administrative rules so they
21 would be consistent.

22 Q. Consistent with?

23 A. The policy revisions. Basically, I just --
24 if policy is revised, and I knew it impacted an
25 administrative rule, then I would make those changes.

1 Q. So there's a distinction between certain
2 internal policies --

3 **A. Yes. Uh-huh.**

4 Q. -- procedures, and the administrative
5 rules?

6 **A. Right. Not all of our policies and**
7 **procedures are administrative rules. Only certain**
8 **ones.**

9 Q. So if I understand the translation, if a
10 change was made on some of those internal policies and
11 procedures, you would then take a look at the
12 administrative rules and change them accordingly?

13 **A. Yes.**

14 Q. Not vice versa?

15 **A. Yes.**

16 Q. You also worked with grants?

17 **A. Yes.**

18 Q. Applying for them?

19 **A. In that position there were some training**
20 **grants that I monitored the compliance. We were given**
21 **money for training, so I monitored the compliance to**
22 **make sure we were following all the rules of the**
23 **grants.**

24 Q. And I know you said your position was
25 called unit supervisor?

1 **A. Yes.**

2 Q. What was the -- what was the unit? Was
3 that a geographical unit?

4 Was it the entire state you were
5 responsible for?

6 **A. It was a statewide program, yes. So it's**
7 **not really -- that's just the working title. I was**
8 **really special projects coordinator. But the unit**
9 **supervisor was the merit title. I guess that's how you**
10 **would say it.**

11 Q. Okay. I just wanted to make sure I
12 understood kind of what your scope was.

13 And going back a little bit, when you were
14 discussing audits, you mentioned that you would audit
15 IPOs and --

16 **A. Field officers. Yeah. Field probation and**
17 **parole officers.**

18 Q. What's the distinction between those two?

19 **A. The institutional parole officer works**
20 **inside a prison. And the field probation and parole**
21 **officer works in the field office in the community.**

22 Q. And so the IPO will be dealing with
23 offenders currently within --

24 **A. Inside the prison. Yes. They work -- they**
25 **just work with the -- the field works with the**

1 **offenders in the community.**

2 Q. That have been released?

3 **A. Correct. On either probation or parole.**

4 Q. So we discussed your job responsibilities
5 including audits, fiscal notes, review fiscal notes,
6 administrative rulemaking, and reviewing grants.

7 Did you have any other job
8 responsibilities?

9 **A. If so, I cannot remember them all. I**
10 **probably did, but I don't remember them all. This is**
11 **the main -- these are the main components of the job.**

12 Q. And after your position as unit supervisor,
13 what was your next position within the Department of
14 Corrections?

15 **A. The emergency preparedness and workplace**
16 **violence prevention coordinator for the department.**

17 Q. And what were your job responsibilities in
18 that position?

19 **A. I was responsible for creating emergency**
20 **procedures for the department for all the prisons and**
21 **the parole offices.**

22 Q. Was this a pretty significant departure
23 from what you were doing previously?

24 **A. Yes.**

25 Q. And in this position were you no longer

1 heavily involved in the parole process?

2 **A. Yes. Had nothing to do with that.**

3 **Correct. Yes.**

4 Q. Did you receive any additional training
5 when you moved into that position?

6 **A. Yes.**

7 Q. And what did that training entail?

8 **A. The national incident management system**
9 **training. There's a lot of training involved about**
10 **emergency preparedness and how to conduct emergency**
11 **scenarios. There's a criteria for each emergency plan.**
12 **Yeah, so there was a lot of training.**

13 Q. And who was your supervisor when you were
14 in this role?

15 **A. The department director, George Lombardi.**

16 Q. And after you worked in the emergency
17 preparedness workplace violence prevention coordinator
18 position, what was your next role in the Department of
19 Corrections?

20 **A. The victims service coordinator for the**
21 **department.**

22 Q. And what were your job responsibilities in
23 that position?

24 **A. I worked with crime victims, alerting them**
25 **of the offender's parole hearing.**

1 I went to the executions and I stayed
2 with -- I basically was support for the victim's family
3 members through that whole process.

4 But we were -- our unit, there was a unit,
5 we were responsible for notifying family members of
6 victims of parole hearing dates so they could attend
7 release dates. Execution dates.

8 Basically providing support to the victims
9 of crime of those that were incarcerated within the
10 Department of Corrections.

11 Q. When you say you provided support, aside
12 from notifying victims of when certain dates, hearings
13 were coming, what does "support" mean?

14 A. I would go to parole hearings with the
15 victims to be there for support. Because it's very
16 traumatic for them.

17 So I was -- if they had any questions, I
18 was there to answer. Make them feel at ease. Try to
19 just make the process less impactful. Because they
20 were going into a prison. It was really -- it was hard
21 on them.

22 And the same with the executions. I mean,
23 you sat there during the execution and observed it, and
24 you were there to help them through it.

25 Q. Was it your role to provide any guidance

1 about the process?

2 **A. Yes. Prepare them for both of those**
3 **things, the parole hearing, what was gonna happen**
4 **during the parole hearing.**

5 Q. So by "prepare" do you mean just advise
6 them of what the steps were? What was gonna happen?

7 **A. Yes. Uh-huh. Exactly. And they**
8 **would -- I would tell them that they could speak to the**
9 **parole board with the offender present. What my staff**
10 **do now. Without the offender. 'Cause they have those**
11 **options.**

12 Q. Has that always been the policy?

13 **A. Yes. As far as I know.**

14 Q. Are there -- under this role as victims
15 service coordinator, were you subject to certain rules
16 or regulations?

17 **A. We could not divulge anything that was**
18 **confidential. We could only provide public**
19 **information.**

20 Q. So, for example, you can't share an
21 offender's parole file with the victim?

22 **A. Correct. Right. They would not -- they**
23 **are not privy to any information that anybody else**
24 **would be.**

25 Q. And are you required by statute to notify

1 victims?

2 **A. Yes.**

3 Q. How does one identify as a victim, for
4 example, in a murder case?

5 **A. Well, the prosecuting attorney's office**
6 **notifies us if there are victims and then we put them**
7 **into a database.**

8 Q. So --

9 **A. Early in that stage, they let them know if**
10 **they want to be made aware of hearing dates. Not all**
11 **of them do. Some of them want to put it behind them.**
12 **So they notify us and then we enter them into a**
13 **database.**

14 Q. So it's the victim's decision --

15 **A. Yes.**

16 Q. -- whether or not --

17 **A. Uh-huh. Yeah. They -- it's up to them if**
18 **they want to be notified and how they want to be**
19 **notified. Correct. Yes.**

20 Q. And who was your supervisor when you were
21 in the victims service coordinator role?

22 **A. Dave Rost, the deputy director of**
23 **corrections.**

24 Q. In this role did you travel to different
25 institutions? Or did you have a certain geographical?

1 **A. Every prison.**

2 Q. Did you have to undergo any additional
3 training when you took that role?

4 **A. Formalized training, no. I attended**
5 **conferences. I'm trying to remember. No.**

6 Q. Was there any other informal training aside
7 from the conferences?

8 **A. On-the-job training from my predecessor and**
9 **the people that were already working in that unit.**

10 Q. As the coordinator, are you the head of the
11 victims services?

12 **A. I was, yes. Uh-huh.**

13 Q. Did you have any supervisory role of other
14 victims service --

15 **A. Yes.**

16 Q. -- coordinators?

17 **A. Yes.**

18 Q. What would the title be?

19 **A. They were actually clerical administrative**
20 **office support assistants. This is terrible.**

21 **Victim representatives. I mean, our unit**
22 **was the victims services unit. I was the coordinator,**
23 **and then there were four victim representatives in the**
24 **unit.**

25 Q. And those representatives would also attend

1 parole hearings with victims and offer support?

2 **A.** **Yes.** **Yes.** **Yes.** I attended the more high
3 profile, make the ones that there -- I thought there
4 might be more potential issues. We could have maybe 15
5 victims attend a hearing. Victim's family members.

6 **Q.** So any number of victims are welcome to
7 attend --

8 **A.** **Yes.** Uh-huh.

9 **Q.** -- a parole hearing?

10 **A.** **Correct.**

11 **Q.** And after your position as victims service
12 coordinator, what was your next position?

13 **A.** **Probation and parole regional**
14 **administrator.**

15 **Q.** Is that your current position?

16 **A.** **Yes.**

17 **Q.** And how did you get this position?

18 Did you apply? Interview?

19 **A.** **Yes, I interviewed for it. Yes.**

20 **Q.** And what were the requirements for this
21 position?

22 **A.** I am -- I don't remember 100 percent what
23 the job opportunity says. Possibly four years of
24 supervisory experience.

25 **Q.** Within the department?

1 A. Yes. Within the Department of Corrections.

2 I can't remember the exact job qualifications.

3 Q. Is there a job description somewhere for
4 your role?

5 A. Yes.

6 Q. And where would that be contained or
7 reflected?

8 A. I'm sure I have that. Personnel would have
9 that information.

Q. And when did you start this current role?

11 A. In December 2013.

12 Q. Are you getting that date from your resumé?

13 A. Yes.

14 Q. I'm going to hand this to the court
15 reporter to mark as Exhibit 1.

16 (Deposition Exhibit No. 1 was marked for
17 identification.)

18 BY MS. ZIMMERMAN:

19 Q. And this is your resumé?

20 A. Yes.

Q. And we've been going through that?

22 A. Correct.

23 Q. What are your duties in this probation and
24 parole regional administrator position?

25 A. I oversee the 21 parole offices in each of

1 the prisons in the state.

2 Q. So you oversee both the institutional
3 parole offices and the field offices?

4 A. No. I'm just over the parole offices in
5 each of the prisons.

6 Q. Is there a similar position that covers the
7 field offices?

8 A. Yes. They're geographically -- there's one
9 for all the field community probation parole officers,
10 like the southwest part of the state, southeast, but my
11 position is the whole state, just all of the
12 institutional parole officers.

13 Because the job is different from the field
14 probation and parole officers. They have a unique
15 position. So I'm over all of them until February 1st.

16 Q. And what happens February 1st?

17 A. They are going to be supervised by my
18 field -- the field regional administrators. They're
19 just going to be absorbed so they can work closer
20 together with reentry services.

21 We've done this before. It was like this
22 before. Several years ago. That they
23 actually -- they're just going to report to somebody
24 different. Their job remains the same. They'll just
25 report to a different regional administrator.

1 Q. And about how long ago was the recent
2 system changed?

3 **A. It's not effective until February 1st.**

4 Q. So you mentioned this was previously the
5 system in place. The IPOs would report to?

6 **A. Oh, when did that happen? You**
7 mean -- that's when I was not with Probation and
8 Parole. That's when I was in one of the department
9 roles. So I'm -- I would be guessing. I don't
10 remember what year. It was when I was not with
11 Probation and Parole.

12 Q. So just to clarify, within your work at the
13 Department of Corrections, you've had several roles
14 that are probation and parole related?

15 **A. Yes. And department. Right. Because**
16 **we're a division. Probation and Parole is a division.**
17 **So, yes, I worked at this divisional level, the**
18 **department level.**

19 Q. And so your current role is --

20 **A. The divisional level, yes.**

21 Q. Whereas your role in victims services and
22 emergency preparedness --

23 **A. Was department.**

24 Q. Aside from overseeing the institutional
25 parole offices for now, what are your other job

1 responsibilities?

2 **A.** That is what I do. I oversee all the --
3 any aspect of any issues that could possibly occur in
4 an institutional parole office.

5 **Q.** Does that include establishing policies and
6 procedures for those IPOs?

7 **A.** Yes. I am involved in developing and
8 revising policy and procedure, and deciphering that to
9 my staff, which is probably about 40 percent of what I
10 did.

11 **Q.** So revising --

12 **A.** Yes. And then distributing the information
13 to my 21 offices. It's just institutional parole
14 offices. That's how to hire somebody, discipline, any
15 possible administrative issue that any type of office
16 would have.

17 **Q.** But some of the policies and procedures, do
18 you have to deal with the substance of the IPOs' work?

19 **A.** Yes. Correct.

20 **Q.** So are you responsible for the policies of
21 how a hearing is conducted?

22 **A.** No.

23 **Q.** Are you responsible for the prehearing?

24 **A.** Yes. The prehearing report. Well, I don't
25 decide what goes in the prehearing report. I make sure

1 **that my staff include all the elements that the board**
2 **has decided that they want in the report.**

3 Q. So is that similar to the audit function
4 that you had in one of your previous positions, where
5 you're focused more on the form --

6 **A. Yes.**

7 Q. -- as opposed to the substance?

8 **A. When I audited --**

9 Q. That was probably a poor question.

10 **A. When I audited I was looking for specific**
11 **elements in the reports. Home plan information.**
12 **Education information. The elements that are in the**
13 **prehearing report procedure that should go into the**
14 **prehearing report.**

15 Q. So aside from kind of the policy and
16 procedure aspect, what else is involved in overseeing
17 the IPOs?

18 **A. I manage the budget for my region.**

19 **I monitor the work units, the work**
20 **produced.**

21 **I determine if there's positions needed at**
22 **the offices.**

23 Any purchases come through me.

24 Training. If they want to attend a
25 training, that comes through me.

1 **Any issue that a warden might have with my**
2 **staff comes through me. Vice versa.**

3 Q. Do you directly deal with the institutional
4 parole officers or is there any position in between?

5 A. Yeah. There are layers. I supervise four
6 DA IIs, district administrator IIs. There's four
7 zones. So I directly supervise the four DA IIs.

8 And then they each supervise approximately
9 five sites within their zone as well as their own.

10 And some of the sites -- each parole office
11 has a supervisor. We call it a chief administrative
12 officer. Although I do not provide direct supervision
13 to the CAOs, I do communicate with them on a regular
14 basis as far as new procedures, protocols.

15 Q. So in your supervisory capacity would most
16 of your communications be with the DA IIs and IPOs?

17 A. Yes. Correct. I would expect my
18 supervisors to talk to their staff.

19 Q. Are there any rules or regulations that you
20 have to follow in this position?

21 A. Yes. There's a lot.

22 Q. Are there parole and probation --

23 A. Yes.

24 Q. -- regulations?

25 A. Uh-huh. I mean, Department of Corrections'

1 policy. We have to abide by the department's policy
2 and procedures. And probation and parole's policy and
3 procedures. There's a lot of procedures.

4 Q. So going back a bit to what we talked
5 about, your roles were in overseeing the parole -- the
6 institutional parole offices. About how much time
7 would you say you allocate between those
8 responsibilities?

9 I can rephrase if that will help.

10 A. Okay.

11 Q. Would you say you spend more of your time
12 drafting and revising policies, or communicating and
13 training the officers and --

14 A. Communicating and training is what I spend
15 the majority of my time doing. Answering email. I
16 cannot keep up with my email in one day.

17 Q. I understand that.

18 A. There's 21 sites asking me what to do every
19 day. How to hire somebody. How to discipline
20 somebody.

21 Yes. How -- how to do a log note.

22 Why won't the warden fix the mold issue in
23 the office.

24 Discipline issues. I spend a lot of time
25 supporting, encouraging my supervisors.

1 Q. So as far as the institutional parole
2 officers, are you kind of the final decisionmaker on
3 how those are run and how they're conducting their
4 jobs?

5 A. You could say that, yes. I mean, not
6 everything gets to my level necessarily. But, yes, I
7 mean, it's my -- they have to just -- if they want to
8 hire somebody everything comes through me from all of
9 those offices.

10 Like, if they can't fill a position, I tell
11 them if they can or if they can't. I approve anybody
12 that is hired.

13 All the discipline comes through me.

14 If they can buy a stapler, it comes through
15 me.

16 Q. How about the substance of the interactions
17 with the offenders, do you kind of set the procedures
18 and protocols for how that interaction takes place?

19 A. Well, there's expectations that they use,
20 motivational interviewing skills, and treat the
21 offenders with dignity and respect. I mean, that's our
22 mission and vision and values. I hold them accountable
23 to that.

24 If I would find out that they weren't doing
25 that then I would certainly have a discussion with

1 **them.**

2 I mean, there are expectations and they're
3 held responsible for those. And they learn those in
4 training, in new staff training. And they're -- those
5 things are in policy and procedure. There's a code of
6 conduct.

7 Q. As the probation and parole regional
8 administrator, do you attend parole board meetings?

9 **A. Yes.**

10 Q. Do you attend all parole board meetings?

11 **A. Most of them that are open to other people**
12 **other than the parole board.**

13 Q. So some are closed just to parole board
14 members?

15 **A. Yes.**

16 Q. What is your role in those meetings?

17 **A. To represent my staff, who work for the**
18 **parole board, who prepare the reports for them, so they**
19 **can make informed decisions and release dates.**

20 Q. So will you be responsible for kind of
21 communicating what's in a specific report or is your
22 role there more general?

23 **A. General.**

24 Q. Do you go over topics or trainings?

25 **A. Yes.**

1 Q. Are you ever involved in voting?

2 A. No.

3 Q. Have you ever attended a parole board
4 meeting where the board is discussing or considering a
5 specific offender's parole release?

6 A. No.

7 Q. Who do you currently report to?

8 A. Julie Kempker, the chief state supervisor.

9 And the parole board chairman, Kenny Jones.

10 Q. And what's the role of the chief state
11 supervisor?

12 A. She oversees the regional administrators.

13 What I do. She deals with the everyday probation and
14 parole issues.

15 Where the chairman is, like, the Appointing
16 Authority, he signs off on discipline, hiring for
17 certain positions, where the chief state supervisor
18 director provides direct oversight over the regional
19 administrators.

20 Q. When you say the regional administrators,
21 there's you, who does the institutions, and then there
22 are other regional administrators for the field office?

23 A. Yes, correct.

24 Q. Does Ms. Kempker also report to
25 Kenny Jones?

1 **A. Yes.**

2 Q. Do you have any interactions personally
3 with offenders in this role?

4 **A. No.**

5 Q. Is there anything about your job
6 responsibilities as a probation and parole regional
7 administrator that we haven't discussed?

8 **A. There might be other things I do, but I
9 don't remember everything right now.**

10 Q. But we talked about your main job
11 responsibilities?

12 **A. Correct. Yes.**

13 Q. Have we discussed all the positions that
14 you've had as a Department of Corrections' employee?

15 **A. Yes. Well, I did forget one thing. When I
16 was the -- well, I said I was the workplace violence
17 prevention coordinator. I didn't really talk about
18 that.**

19 **But I was -- I also did that with the
20 emergency. And so it was in that role I oversee all
21 the peer-action care team members over the whole state.**

22 **And basically what those people do are
23 provide support to other staff if they've had a
24 traumatic experience. It was a program, like a
25 peer support program, and I oversaw that as well.**

1 Q. And that was your workplace violence
2 coordinator role?

3 A. Yes.

4 Q. Anything else?

5 A. I think that's it.

6 Q. Forgive me if I asked you this question:
7 Did you receive any formal training when you started as
8 the probation and parole regional administrator?

9 A. Yes. And you did not ask me that. I went
10 to executive excellence training. National Institute
11 of Corrections puts that on. It was two weeks in
12 length, and it was in Colorado.

13 And the other was on-the-job training
14 informal.

15 Q. For the executive excellence training, what
16 types of topics did that cover?

17 A. Leadership training. Primarily.

18 Q. Was there any legal training?

19 A. No.

20 Q. Anything about how to implement policies
21 and procedures?

22 A. No.

23 Q. Anything about any psychology-type courses?

24 A. No.

25 Q. Or topics that covered juvenile development

1 or adolescence?

2 **A. No.**

3 Q. Have you received any training while at the
4 Department of Corrections on motivational interviewing?

5 **A. Yes.**

6 Q. When would that have been?

7 **A. Oh, I have this highlighted.**

8 **December 29th, 2016. And April 28th, 2014.**

9 Q. I'm going to hand the document to the court
10 reporter to mark as Exhibit 2.

11 (Deposition Exhibit No. 2 was marked for
12 identification.)

13 BY MS. ZIMMERMAN:

14 Q. So this document that the court reporter
15 just marked as Exhibit 2, is this your training
16 history?

17 **A. The last four years. Just since I've been
18 in this position.**

19 Q. And who puts on these trainings?

20 **A. Some of them are provided by our
21 department's training academy. Some were conferences.**

22 Q. Were any of these trainings specific to
23 Senate Bill 590?

24 **A. No.**

25 Q. Or to juvenile life without parole

1 offenders?

2 **A. No.**

3 Q. Have you received any formal training at
4 Department of Corrections on adolescent development?

5 **A. No.**

6 Q. Child psychology?

7 **A. No.**

8 Q. Risk assessment tools?

9 **A. Yes.**

10 Q. And what kind of training did you have on
11 risk assessment tools?

12 **A. Well, I do the training on salient factor
13 score, so I'm considered a subject matter expert in
14 that.**

15 Q. So what is the salient factor score?

16 **A. It's a tool that we use to help the parole
17 board determine parole guidelines. It's just a tool to
18 help identify risk and need of the offender.**

19 Q. What risk of the offender?

20 **A. It looks at conduct violations. Substance
21 abuse issues. Program completion. Among other
22 variables, both statics and dynamic.**

23 **It's a tool that we feel like has been
24 validated to help determine possible risk of the
25 offender.**

1 **And that's how we apply the parole**
2 **guidelines. We use this tool. And depending on their**
3 **score, and sentence, length, type of sentence, we have**
4 **parole guidelines that the parole board uses for**
5 **release dates.**

6 Q. So this score considers all the factors you
7 just described?

8 **A. More, but I don't have all of them**
9 **memorized.**

10 Q. Sure.

11 And then it provides a -- some type of
12 score as to the offenders risk of re-offending?

13 **A. Correct.**

14 Q. Is that correct? Is that used in all
15 parole hearings for all offenders?

16 **A. Yes.**

17 Q. Including juvenile life without parole
18 offenders?

19 **A. Yes.**

20 Q. Have you received any formal training at
21 the Department of Corrections on the law?

22 **A. Constitutional law. Missouri statutes.**

23 **Regulations. Yes.**

24 Q. Can you describe those? What you were
25 trained on?

1 **A. I believe it was constitutional law. And**
2 **it would have been in 1994.**

3 **Q. So just at that initial four-week training?**

4 **A. Yes.**

5 **Q. So you mentioned that you're a salient**
6 **factors expert -- subject matter expert?**

7 **A. Yes, you could say that.**

8 **Q. So you conduct training on the salient**
9 **factor score?**

10 **A. I have.**

11 **Q. Who do you provide those trainings for?**

12 **A. The last time I did it it was for the**
13 **parole board. And I just explained the variables, just**
14 **to make sure that they had a good understanding --**
15 **because there were several new board members -- of the**
16 **different things that my staff look at when they score**
17 **the tool.**

18 **Q. Are there any other topics that you conduct**
19 **trainings on?**

20 **A. Not formally.**

21 **Q. Informally?**

22 **A. Well, I train my staff every single day on**
23 **different issues. I don't conduct formal training at**
24 **our training academy as part of my job duties.**

25 **Q. Do you coordinate or arrange for other**

1 trainings?

2 A. Yes. If I see there's a need in my region
3 for a training.

4 I have a regional training coordinator,
5 which is what I used to do, and she will coordinate the
6 training, find somebody to do the training, or do the
7 training herself. If I see a need arises for some type
8 of training, that there's a lesson plan. We have to
9 have lesson plans to conduct training in our
10 department. There has to be an approved lesson plan.
11 Which I have for all of the trainings that we provide.

12 Q. So you can't just host a training?

13 A. Yes. Correct.

14 Q. It has to be approved what you're going to
15 be going over?

16 A. Yes. Yes. It's very -- there's a lesson
17 plan form and a curriculum.

18 Our training academy is very particular.
19 So basically if there's a lesson plan, anybody can use
20 that lesson plan and train on it.

21 Q. So in your current role most of the
22 training responsibility falls to the --

23 A. Regional training coordinator. And the
24 training academy, correct.

25 Q. Do you know if the parole board has

1 received any training regarding adolescent development?

2 **A. I don't know.**

3 Q. Or the district administrators?

4 **A. I don't believe so.**

5 Q. Or the IPOs?

6 **A. No.**

7 Q. Has the parole board received any training
8 regarding juvenile life without parole sentences or
9 Miller versus Alabama?

10 **A. I don't know.**

11 Q. What about the district administrators?

12 **A. No.**

13 Q. The IPOs?

14 **A. No.**

15 Q. Has the parole board received any training
16 regarding child psychology?

17 **A. I don't know.**

18 Q. Have the district administrators?

19 **A. Not that I'm aware of. Not anything formal**
20 **that I'm aware of. I mean, not my district**
21 **administrators.**

22 Other than if they attended -- you can
23 attend a training outside the department. Or we've had
24 specialized trainings where we bring outside trainers
25 in. Has that occurred on that topic? Possibly. But

1 **there's not a formal lesson plan on that that our**
2 **academy does.**

3 Q. As far as you know the IPOs also haven't
4 received any formalized training on child psychology?

5 **A. No.**

6 Q. Do the IPOs have required hours of
7 training?

8 **A. Yes.**

9 Q. Is that per year?

10 **A. Forty hours per year.**

11 Q. And the district administrators?

12 **A. Same.**

13 Q. The parole board?

14 **A. Yes. The same.**

15 Q. Are there required topics that they cover
16 each year or just any lesson plan?

17 **A. Any training. Supervisors within that**
18 **40 hours have to have 16 hours of management training.**
19 **Sixteen of it has to be management training if you're a**
20 **supervisor.**

21 Q. And so that means the training would be
22 more focused on --

23 **A. -- on the leadership.**

24 Q. -- not the administrative, not the
25 substance of the parole procedures?

1 **A. Right. Not everyday operations, correct.**

2 Q. Have the IPOs received any training
3 regarding Senate Bill 590?

4 **A. No.**

5 Q. When I refer to Senate Bill 590, do you
6 know what I'm talking about?

7 **A. Yes.**

8 Q. Have the district administrators received
9 any training regarding Senate Bill 590?

10 **A. No.**

11 Q. The parole board?

12 **A. I don't know.**

13 **I would like to take a break.**

14 **(A break was taken.)**

15 BY MS. ZIMMERMAN:

16 Q. Are you familiar with Miller versus
17 Alabama?

18 **A. No.**

19 Q. Are you familiar with Montgomery versus
20 Louisiana?

21 **A. No.**

22 Q. Are you aware of litigation by
23 Missouri offenders subject to those two cases?

24 **A. I'm only familiar with this, what this is
25 about. I'm not familiar with any other litigation.**

1 Q. So you're familiar -- are you familiar with
2 Senate Bill 590?

3 A. Yes.

4 Q. Have you read it?

5 A. In 2016.

6 Q. When it first came out?

A. Correct.

8 (Deposition Exhibit No. 3 was marked for
9 identification.)

10 BY MS. ZIMMERMAN:

11 Q. I'm handing you what's been marked as
12 Exhibit No. 3.

13 Are you familiar with that document?

14 A. Yes.

15 Q. Are you aware of what it provides?

16 A. Yes.

17 Q. Are you familiar with the factors that it
18 sets forth to be considered during a parole hearing?

19 A. Yes.

20 Q. So what is your understanding of what
21 Senate Bill 590 provides?

22 A. Well, it's what I used to incorporate the
23 elements into the parole hearing worksheet used for the
24 juvenile life without parole hearings.

25 I used -- I just used this senate bill, and

1 I went through the elements, and I identified the
2 elements that were not in the worksheet for my
3 institutional parole officers to ask and assess during
4 the prehearing interview.

5 So I basically -- I just took this, and
6 any -- if that element was not in this worksheet, I
7 added it to the worksheet.

8 Q. So maybe what we'll do, we'll skip ahead to
9 the worksheet that you were discussing.

10 A. Okay. I mean, I understand that this
11 allows the offenders to petition the board for a parole
12 hearing if they were a juvenile.

13 (Deposition Exhibit No. 4 was marked for
14 identification.)

15 BY MS. ZIMMERMAN:

16 Q. So I'm handing you what's been marked as
17 Exhibit 4.

18 Is this the -- if you kind over flip a page
19 or two, is this the worksheet that you were referring
20 to?

21 A. Yes. Uh-huh.

22 Q. And describe what this worksheet is?

23 A. Yes. I took the prehearing worksheet that
24 we used for all parole hearings, and added the elements
25 that were not in the current one we use for parole

1 hearings just for these juvenile life without hearings.

2 If that makes sense.

3 I just took the worksheet that I've -- that

4 the IPOs, by procedure use now for pre-hearings --

5 prehearing reports. And I just added the elements that

6 weren't addressed already into the worksheet.

7 Q. So the original worksheet that is used in

8 all --

9 A. Right.

10 Q. -- parole hearings or parole interviews?

11 A. Yes.

12 Q. Did you create that worksheet?

13 A. I had -- I was involved in the creation of
14 it, yes, 24 years ago. And it's just evolved over
15 time. And I've been involved at different times.

16 Q. And who is involved in creating and
17 updating that worksheet?

18 A. I have an institutional parole officer
19 training committee in our region and they help update
20 the worksheet as well.

21 Q. You said in our region?

22 A. My institutional parole region. Because
23 we're considered a region. So it's all the IPOs.

24 This training committee, they also --
25 they're the ones that conduct the new institutional

1 parole officer training I was talking about, the
2 three-day training.

3 So we've incorporated different components
4 over the years if policy changes. Or maybe when I'm
5 looking at various reports, I'll see that maybe
6 something needs to be clarified in this worksheet that
7 they should ask the offenders that might help them do
8 their job. Because they go through this when they're
9 interviewing the offender before the hearing. This
10 reminds them what to ask, basically. It's a tool.

11 Q. Are the questions on that worksheet
12 mandatory?

13 A. They are mandatory, yes, on this juvenile
14 life without worksheet.

15 Q. But not necessarily on the regular
16 worksheet, for lack of a better word?

17 A. Yes. They're mandatory.

18 Q. Are IPOs trained on how to use this
19 worksheet?

20 A. Yes.

21 Q. And are they trained to ask every single
22 question on there?

23 A. If it's applicable. Some of these
24 questions may not be totally applicable.

25 Q. And how is that determination made?

1 **A. Well, if they say they do not have a**
2 **substance abuse problem, they would not ask them what**
3 **drugs they used, when they used it. On page five, as**
4 **you can see, there's a whole chart.**

5 Q. And so if it was determined that someone
6 did not have a substance abuse issue that chart would
7 probably not get filled in?

8 **A. Correct. And then on page six there's a**
9 **lot of different questions that may not be asked**
10 **depending on their use of substances.**

11 Q. And so that is left up to the IPO
12 conducting the hearing?

13 **A. Yes.**

14 Q. And are they trained on how to exercise
15 that discretion?

16 **A. Yes. We spend almost an entire day on**
17 **interviewing and using this worksheet in our new IPO**
18 **training.**

19 Q. Can the IPOs ask questions that are not
20 contained on this worksheet?

21 **A. Yes.**

22 Q. Is that also left to their discretion?

23 **A. Yes.**

24 Q. Is it suggested that they ask questions
25 outside of this worksheet?

1 **A.** It would depend. If there's something --
2 if there are some significant issues with domestic
3 violence, sex-offending behavior, conduct violations,
4 there may be more probing questions to give a thorough
5 assessment.

6 So if there's an area that they need to
7 expand on for the parole board to make a decision in
8 those cases it would be encouraged.

9 Part of motivational interviewing skills.
10 But, yes, they can ask additional questions if it's
11 appropriate. They're not supposed to be answering
12 questions that would not be appropriate.

13 Q. So would you say generally the main -- or
14 all the topics that would be covered in a prehearing
15 interview are contained in this worksheet?

16 **A.** Yes.

17 Q. Questions that would be asked outside of
18 this worksheet would be more in-depth probing questions
19 on these topics?

20 **A.** Yes. Correct.

21 Q. And does all of that hold true for the
22 juvenile life without parole prehearing worksheet?

23 **A.** Yes.

24 Q. Were the IPOS trained on how to complete
25 that worksheet?

1 **A.** They were sent the worksheet. I emailed
2 the worksheet to them. I'm -- the worksheet was sent
3 to the supervisors with my expectation that they would
4 have explained the additional elements in this
5 particular worksheet, and I highlighted those for their
6 staff to be aware of.

7 Q. Do you know if that truly occurred in all
8 of the institutions?

9 **A.** No. I am assuming that it did. I hope
10 that it did.

11 Q. But you can't say positively that it
12 occurred, that that type of training and guidance was
13 given in every institution?

14 **A.** Correct.

15 Q. So is it possible that an IPO would not be
16 aware of the mandatory questions they had to ask in the
17 juvenile life without parole worksheet?

18 **A.** No. Because they're on the sheet that
19 they're supposed to ask. I mean, they are provided for
20 them. Unless they didn't see it or forgot about it.
21 But it outlines what they're supposed to ask.

22 I would hope that they use the worksheet
23 and spell out every word to the offenders, but I can't
24 state that every one of them did. I don't know of any
25 case that they did not.

1 Q. And is this worksheet only filled out based
2 on the interview with the offender?

3 **A. Yes.**

4 Q. So other information or documents from the
5 parole file would not make their way into the
6 worksheet, correct?

7 **A. What do you mean by documents?**

8 Q. So, for example, I know that in the
9 prehearing report there will be an official version of
10 the present offense that would not be reflected in this
11 worksheet. This worksheet would reflect the offender's
12 description of the present offense; is that right?

13 **A. No. This -- this is the same as the other
14 worksheet. They're going to report the same
15 circumstances of the offense that they would in a
16 normal hearing.**

17 Q. Let me clarify my question for you. So
18 this worksheet eventually becomes a prehearing report;
19 is that correct?

20 **A. Correct.**

21 Q. And that report will contain information
22 from other documents in the parole file; is that
23 correct?

24 **A. Correct.**

25 Q. Whereas this worksheet will not reflect

1 information aside from what occurs in the interview;
2 is that correct?

3 **A. Well, this is what they use to interview**
4 **the offender. Then they type a report up. So when**
5 **they type the report up, they'll see the official**
6 **circumstances, if there are any, in other documentation**
7 **in the file. This is just an interview worksheet.**

8 Q. And that is what I was getting at.

9 **A. I'm sorry.**

10 Q. As they're going through, are they looking
11 at an official record, you know, of conduct violations?
12 Or just based on the conversation?

13 **A. No, they should be looking at everything.**
14 **When they pull the offender in to interview him, yes,**
15 **they should have all of that information.**

16 **They should have scoured the file before**
17 **they talk to the offender. And they should know**
18 **everything going on, every conduct violation, they**
19 **should know that.**

20 Q. Is the material in that file shared with
21 the offender?

22 **A. No.**

23 Q. So they wouldn't be bringing those
24 documents with them to the interview?

25 **A. No. No. I mean, they should know. They**

1 should have known, probably, you know, taken notes.

2 No, they're not shown to the offender. But
3 they have should have done their homework and looked
4 everything up before they talked to the offender.

5 Q. Are the IPOs expected to take notes
6 directly in this document?

7 A. As long as they ask every question, I guess
8 they could put it on another piece of paper. It
9 wouldn't have to be on this one. But they're going to
10 have to use all of these questions.

11 Q. So do you anticipate this is enough space
12 for the notes taken during the interview?

13 A. Probably not. It's already 13 pages. It
14 may not be enough space. They may have to use
15 additional paper.

16 Q. Because of the amount of information
17 they're supposed to be collecting?

18 A. Right. Yes.

19 Q. Going back, when we were discussing the
20 creation of these worksheets, you mentioned an IPO
21 training committee. Who else is on that committee?

22 A. Anita Vandoren.

23 Other -- it's other -- my staff. Just
24 there are supervisors and officers. Probation and
25 parole officers. And any regional training

1 **coordinator.**

2 **Do you want their names?**

3 Q. I don't need their names. I'm more

4 interested in the positions that are involved.

5 **A. Oh, okay.**

6 Q. If that makes sense.

7 **A. Yes. My regional training coordinator.**

8 **I have a couple supervisors on the**

9 **committee. And POs, probation and parole officers, on**

10 **this committee.**

11 Q. Would those IPOs?

12 **A. Yes. Yes. Only IPOs. Correct.**

13 Q. Did that same committee make the

14 revisions --

15 **A. No.**

16 Q. -- pursuant to Senate Bill 590?

17 **A. No.**

18 Q. Was that just you?

19 **A. No. Myself and Aaron Jarrett.**

20 Q. And who is Aaron Jarrett?

21 **A. He's a unit supervisor at South Central**

22 **Correctional Center. And I chose him because of our**

23 **work units.**

24 **I have various sites that have those cases.**

25 **And I was looking for some help. Somebody that I**

1 thought could help me put all this in the worksheet.

2 And I looked at our work units, and I felt
3 like, depending on the workload at Licking, in Licking,
4 Missouri, that he would have the time to help me with
5 that.

6 And that was the only reason I selected
7 him. He didn't have more experience than any other. I
8 just looked at all my sites that have those types of
9 cases and thought that he could help me. And he has
10 been on the training committee. He's not currently.

11 Q. So he was not chosen because of any
12 particular expertise?

13 A. No.

14 Q. It was because he had time?

15 A. I felt that he had the time to do that,
16 yes, 'cause he has three employees.

17 Q. And so how did you go about revising the
18 worksheet?

19 A. I sent him the worksheet. This work -- the
20 regular worksheet for -- which he has already. But I
21 sent this to him. And I sent the Senate Bill 590. And
22 highlighted the elements that needed to be included in
23 the worksheet. And asked him to incorporate those
24 elements in the appropriate section of the worksheet.

25 Q. And in looking at Exhibit 3, the

1 Senate Bill 590, can you identify where -- what those
2 elements are that you highlighted for him to add to the
3 worksheet?

4 **A. You mean in the worksheet itself?**

5 Q. Um, first of all, in the bill, and then
6 we'll go through the worksheet and see where you added
7 them.

8 **A. No, I don't know off the top of my head.**

9 **I'd have to go through it all.**

10 Q. If you would look at page two, section
11 five. You'll see numbers 1 through 5.

12 **A. Okay. Yes. Like No. 1, efforts made**
13 **towards -- okay. I see those in here.**

14 Q. Were those the factors that you asked him
15 to include in the worksheet?

16 **A. Yes. But some of these were already in the**
17 **worksheet. Like, the person's institutional record**
18 **during incarceration. We already had that in the**
19 **worksheet.**

20 **So the elements that I did not feel were**
21 **adequately addressed in the worksheet I added. And I**
22 **actually have them highlighted in the worksheet.**

23 Q. So the highlights reflect the additions
24 that were made?

25 **A. Yes. Correct.**

1 Q. Do you know how Mr. Jarrett went about
2 adding these to the worksheet?

3 **A. Well, I asked him to take each element and**
4 **review it to make sure that if we didn't cover it that**
5 **it be included. And putting it in the section that it**
6 **was most applicable. For example, under present**
7 **offense, we added the extent of the defendant's**
8 **participation in the offense.**

9 Q. As far as you're aware, did he mostly take
10 the language from Senate Bill 590 and insert it into
11 the worksheet in the various places where it made
12 sense?

13 **A. Yes. And I reviewed it. Two years ago.**

14 Q. Did the two of you discuss how these new
15 elements or factors should be analyzed or discussed
16 with the offender?

17 **A. Yes.**

18 Q. Can you describe a little bit about what
19 you talked about?

20 **A. I elaborated on each element. And what**
21 **information we should be reporting to the probation and**
22 **parole board.**

23 Q. So, for example, if you look on page two of
24 the worksheet, where it says the defendant's age,
25 maturity, intellectual capacity, and mental and

1 emotional health and development at the time of the
2 offense, how did you envision that that is assessed in
3 this interview?

4 **A. One would be if we had official**
5 **circumstances of the offense. Such as a police report,**
6 **a PSI, presentence investigation. Some of the**
7 **information may be included in one of those reports.**
8 **And then the officer. We'd probe into those elements.**

9 Q. What types of things do you think the
10 officer would ask about to get an understanding of that
11 particular element?

12 **A. If there was information about their**
13 **maturity, possibly, or intellectual capacity at that**
14 **time, in the police report. Or a presentence**
15 **investigation. Or any file material that was**
16 **available.**

17 There are cases -- and I have this in the
18 worksheet. The medications may have been in one of
19 those reports or case reference material. Or if
20 there's an official diagnosis, or their IQ at that
21 time. And your questioning of the offender.

22 Q. So on that last piece, the questioning of
23 the offender, what types of questions could an IPO ask
24 that would indicate the offender's maturity at the time
25 of the offense?

1 (Mr. Ault left the deposition.)

2 THE WITNESS: I think just talking to them,
3 they may have a better understanding of that. Just in
4 the interviewing of the offender. And talk about their
5 participation in the offense. If they admitted to the
6 crime. What their role was.

7 Are they experts in that? No. No.

8 They're not.

9 BY MS. ZIMMERMAN:

10 Q. So for that piece that we've been looking
11 at, there's no specific questions regarding that
12 element that you had in mind --

13 A. No.

14 Q. -- in putting this together?

15 A. No. When they first come in the department
16 they have an IQ test. That's all in the file material
17 at the time they were received.

Q. Is that the Diagnostic Center report?

19 A. Yes. So my staff have all that. They
20 would know any diagnosis. Any medications. Their IQ.
21 They would know if there was abuse 'cause they're gonna
22 ask them about that.

23 Their childhood. They're going to ask them
24 everything about that, and if there was a poor
25 upbringing. They'll know that in their other questions

1 throughout the report in the family section.

2 Q. And you're saying they'll know about that
3 from the Diagnostic Center report?

4 A. No. Well, no. They would know that in the
5 interview with the offender, because they would ask
6 them that, "was there any abuse growing up?"

7 Q. Were the IPOs trained on how to assess
8 whether an offender's accepted accountability?

9 A. No. There's not formalized training.
10 Other than motivational interviewing. Just interview
11 skills, and coming out and asking them if they -- what
12 their participation was in the crime. What their role
13 was.

14 They could come out and ask them if they
15 accepted responsibility. What they -- what it is that
16 they thought they did wrong. Or vice versa.

17 Q. And if the offender is asserting innocence,
18 how is that handled?

19 A. That would be acknowledged and they would
20 continue the questioning.

21 They may ask them if they didn't do it,
22 then what other role -- if there was another
23 role that they played in the crime.

24 They're not the police. And they're
25 interrogating them. This is an assessment, you know,

1 **to prepare their report to the board.**

2 Q. So Mr. Jarrett made -- was the one that
3 made the changes to the worksheet, correct?

4 **A. Yes.**

5 Q. And you reviewed those changes?

6 **A. Correct.**

7 Q. Did you make any changes from his changes?

8 **A. I don't remember that. I may have. I'm**
9 **pretty particular. I may have added something in a**
10 **different section, but I really don't recall. But I**
11 **did review it.**

12 Q. Is the highlighted version what was sent
13 to --

14 **A. Yes.**

15 Q. -- the IPOs?

16 **A. Correct. Uh-huh.**

17 Q. So they were aware of what the changes were
18 specific to juvenile life without parole hearings?

19 **A. Yes.**

20 Q. Were they educated on Senate Bill 590?

21 **A. Educated as they were sent the bill. And**
22 **they were given a summary of the elements that needed**
23 **to be considered by the board at the time of the**
24 **hearing.**

25 Q. Aside from considering additional elements,

1 were they instructed to conduct this interview any
2 different than a normal interview?

3 **A. No.**

4 Q. So they were asked just to ask a few more
5 questions; is that accurate?

6 **A. Yes. Correct.**

7 Q. And instances where the worksheet doesn't
8 spell out a question, is it up to the IPO to formulate
9 their own question that gets at that issue?

10 **A. Yes.**

11 Q. So, for example, on page seven, where
12 you'll see the highlights that say efforts made toward
13 rehabilitation --

14 **A. Uh-huh.**

15 Q. It would be up to the individual IPO to ask
16 questions to better understand efforts made toward
17 rehabilitation?

18 **A. Yes.**

19 Q. Compared to page eight, where there are
20 specific questions laid out formally?

21 **A. Yes. The subject matter is a little**
22 **different. Education is a little bit different than**
23 **mental health. I mean, education is more yes or no,**
24 **what they have done, what they haven't done. What**
25 **they're on the waiting list to do. What they're**

1 interested in.

2 Q. Is programming provided at all based on the
3 type of sentence an offender has?

4 For example, are certain offenders not
5 eligible for certain programs.

6 A. Every prison has different programs.

7 They're put on a waiting list. I don't think anyone's
8 necessarily excluded, but I'm sure there are some, like
9 vocational-type programs that there's certain criteria
10 for that that not every offender would be eligible for.

11 Maybe if there's a parenting class, no,
12 there's no -- there's no eligibility requirements for
13 that.

14 Or acre management. They could just sign
15 up for that. Like, heavy equipment operation, yes,
16 there's going to be. So it depends on what the topic
17 is. What the -- and there are long waiting lists, and
18 they're not all able to enter and complete a program.
19 And I'm sure that's based on the need, depending on
20 what the class is, at some of the sites.

21 Q. And some of that is institution based?

22 A. Right. It's totally based at each site,
23 correct.

24 Q. I notice that on pages 9 and 11 categories:
25 Transition supervision plan and the other home

1 assessment plan.

2 **A. Yes. So on my transition supervision plan,**
3 **is that where you're starting?**

4 **Q. Yes. And then on 11 is home plan**
5 **assessment.**

6 **A. Okay.**

7 **Q. How do those categories differ?**

8 **A. Well, the transition supervision plan is**
9 **more broad. What's their goals -- goals upon release.**
10 **That's -- it's more discussion about assessing**
11 **their motivation, their goals upon reentry, in terms of**
12 **long-term and short-term goals.**

13 **Whereas home plan assessment is strictly,**
14 **you know, the home plan that they're going to -- are**
15 **you going to your mom's? Have you -- were you there**
16 **before? Can she provide you support? You know, what**
17 **does she do?**

18 **The home plan assessment is more specific**
19 **about the physical location and the support that**
20 **they're going to receive. Or lack thereof. The**
21 **relationship of the person that they're going to live**
22 **with.**

23 **Does that make sense?**

24 **Q. It does.**

25 **A. Okay.**

1 Q. So am I correct that the very last section
2 on page 12 is assessment and recommendation?

3 A. Yes. That's where they -- it's like a
4 summary of the whole document. And they highlight
5 significant assets and liabilities of the offender.

6 Q. And that's spelled out in the prehearing
7 report?

8 A. Yes. You mean in the assessment and
9 recommendation? Yes, they should be highlighting any
10 areas of particular -- if there's any risk, you know,
11 that they need to bring forth to the attention of the
12 parole board. It's a good place to include that
13 information in the assessment and recommendation.

14 Like, their overall assessment of the
15 person. Their assets and liabilities, and what they're
16 recommending as special conditions, and a release date
17 for the offender. They would highlight all those
18 things there. Formulate a summary, so to speak.

19 Q. Are they -- are the IPOs trained on how to
20 weigh and balance these factors to make an assessment?

21 A. We are training on that right now, as a
22 matter of fact, yes. I have another committee working
23 on samples of good assessments and recommendations, and
24 things to take in consideration when writing that
25 portion of the report.

1 **Yes. This is a work in progress. We're**
2 **always enhancing the quality of our reports for the**
3 **parole board.**

4 Q. Is there a general understanding provided
5 that, you know, if you answer this question yes, it's a
6 positive, if you answer this question no, it's a
7 negative, without numerically doing so to balance the
8 responses they get in the interview to determine a
9 recommendation?

10 A. No. They report their assets and
11 liabilities, both. Strengths and weaknesses, both. I
12 mean, they don't necessarily -- they're reporting the
13 facts.

14 Q. They're reporting the facts and they're
15 also --

16 A. -- making a professional assessment, yes.
17 They're making a professional assessment about their
18 behavior while they're -- they've been
19 institutionalized.

20 There could program completion. They're
21 looking at the whole picture. They're looking at
22 everything, to get the opinion -- the best assessment
23 they can. I mean, they should be noting the positives
24 as well as any negatives.

25 Q. So how do they determine what is a positive

1 versus what is a negative?

2 **A.** Strengths would be -- they have been
3 trained that strengths would include education. A good
4 family support. Lack of substance use. Program
5 completion. Receiving minimal to no conduct violations
6 would be a strength.

7 I'm sure that they have received that
8 training in the training that they go to, and I can't
9 think of the name of the class. They understand what
10 their strengths and weaknesses would be.

11 Q. Is the offender told what the
12 recommendation is going to be?

13 **A.** No.

14 Q. Would it be a problem if they were?

15 **A.** I have -- just had a staff member that was
16 assaulted. I believe that would be a problem. They
17 work in the housing units with the inmates.

18 Q. I guess my question was more would it be a
19 violation of some procedure if an IPO told the offender
20 what their recommendation was going to be?

21 **A.** It's not the practice that we share -- that
22 the IPO share the recommendation with the offender.
23 That is not the direction they've been given.

24 They've been given direction not to share
25 what their particular recommendation is with the

1 offender. They may not know what their recommendation
2 is going to be during the interview with the offender.
3 It's based on a lot of -- when I was an IPO, I didn't
4 know what I was going to recommend during the
5 interview. Especially -- these are serious cases. And
6 so I would hope that they put a lot of thought into it
7 and that they wouldn't know that at that particular
8 time yet.

9 Q. So you mentioned that you know the IPOs
10 have been given direction, that that's not the
11 procedure. Aside from formalized trainings that we've
12 discussed, how are directions like that given to the
13 IPOs across the state?

14 A. Memos. Emails. Meetings. Meeting
15 minutes. If something isn't spelled out in procedure,
16 then we operate off of memos and emails. Office
17 training. Just business practices of an office.

18 When they're being trained, they're told
19 that, after they complete new staff training, then they
20 have on-the-job training. And mentoring and coaching
21 with different assigned staff. And their supervisor.
22 And those -- anything that's not clarified in policy
23 and procedure would be -- they would be -- would
24 receive that direction then.

25 Q. Is direction always given to all the sites?

1 Or are there times when maybe you receive an email
2 question and you're just kind of clarifying something
3 for one group or another group?

4 **A. Both. I may just -- yes, I may just answer**
5 **one person's question. When I answer their question, I**
6 **might reply to everybody so they all know if they had**
7 **this question, here's the answer.**

8 **Or any direction that -- any new direction,**
9 **or any direction that needs to be -- information that**
10 **needs to be distributed I distribute to all the**
11 **supervisors.**

12 Q. Would you say that one of your
13 responsibilities is ensuring kind of consistency of
14 direction and of procedure?

15 **A. Yes.**

16 Q. Across all of the sites?

17 **A. Yes. That's what I've been working on for**
18 **the last four years.**

19 Q. So turning back to the elements in
20 Senate Bill 590 that we looked at earlier. As we kind
21 of noted the first one was efforts toward
22 rehabilitation; is that correct?

23 **A. Yes.**

24 Q. So could you point out for me in the
25 worksheet where efforts toward rehabilitation is

1 assessed?

2 A. Well, first of all, I would hope that the
3 officer looks at the totality of any strength that the
4 offender has. Good conduct would definitely be an
5 effort towards rehabilitation. And I see that we did
6 have that in the worksheet.

7 Any programs that they've completed would
8 be an effort towards successful release.

9 **Rehabilitation.**

10 Q. Aside from that kind of conduct education
11 programs session, page seven, is there anywhere else in
12 this worksheet that instructs the IPOs to consider
13 efforts towards rehabilitation?

14 A. It's not highlighted. That phrase isn't
15 highlighted under transition supervision plan, but that
16 would be part of it.

17 If they're looking at their goals, they
18 have goals. If they thought about their goals, that
19 would definitely be efforts towards rehabilitation.

20 Recreation could be.

21 If they're spending their free time reading
22 on educational topics that they're interested in.

23 Employment upon release, that could be one.
24 It's not spelled out in the prehearing worksheet, if
25 that's what you're asking me.

1 Q. And then the next factor is generally
2 related to subsequent growth and increased maturity.

3 Is that an accurate direction?

4 A. Yes.

5 Q. So where in the worksheet would those
6 elements be identified or asked about?

7 A. Other than where it's highlighted on page
8 two, I would hope that the IPO is using the
9 same -- taking the same things in consideration for
10 growth and maturity as efforts toward rehabilitation.

11 Really, they're both connected. The same
12 thing, what they're doing to better themselves,
13 education, their conduct. How they spend their free
14 time. Their thoughts about the future. Their home
15 plan. What they've done to obtain a home plan.

16 Q. How is accepting accountability except
17 where innocence is maintained, where is that reflected
18 in the worksheet?

19 A. Page two under present offense. The extent
20 of their participation in the offense. And then their
21 culpability. Their role in the offense. All the
22 highlighted questions under the present offense, I
23 think, would help them.

24 Q. And I believe we discussed earlier that the
25 institutional record was something that was already

1 included in the regular worksheet?

2 **A. Yes.**

3 Q. And how about the final Senate Bill 590
4 factor that relates to the risk to society, how is that
5 assessed in this worksheet?

6 **A. I think that is every element that is**
7 **highlighted in the assessment and recommendation, page**
8 **12, of the worksheet.**

9 Q. And we discussed this off the record, but
10 is the salient facto score used for juvenile life
11 without parole offenders?

12 **A. No.**

13 Q. So what -- so this worksheet is used in the
14 interview with the offender, correct?

15 **A. Yes.**

16 Q. And what happens after the interview is
17 complete?

18 **A. They prepare their parole hearing report.**

19 Q. And is that based, on part, on this
20 worksheet?

21 **A. Yes. It's totally based on the worksheet.**
22 **And the conduct violations, and other documents that**
23 **they we have. Like, the official circumstances of the**
24 **present offense, victim's impact statements in the**
25 **file.**

1 Q. And -- sorry.

2 A. Just any other -- any information that's in
3 their file, including their interview, would be
4 included in the final parole hearing report.

5 Q. And after the report is complete, what
6 happens to this worksheet?

7 A. It's destroyed. Not -- yes. It's
8 destroyed. Because they have taken all of their notes
9 and typed them into a report.

10 Q. Is there any check or audit, that all the
11 information that's captured in the worksheet during the
12 interview ends up in the report?

13 A. The supervisor has to sign off on the
14 report and they turn in their worksheet with the
15 report.

16 Q. And so the supervisor, are they instructed
17 to check the worksheet against the report?

18 A. They're instructed to make sure the
19 elements are in the prehearing report from this
20 worksheet.

21 Q. But you're not sure if they actually do the
22 comparison?

23 A. Correct.

24 Q. Aside from the supervisor, is this
25 worksheet reviewed by anyone else?

1 **A. No.**

2 Q. The parole board members don't see this
3 worksheet?

4 **A. No.**

5 Q. Or the parole analysts?

6 **A. No.**

7 Q. Is this worksheet shared with the offender?

8 **A. No.**

9 Q. Were you directed by someone to make the
10 juvenile life without parole changes to the worksheet?

11 **A. Yes.**

12 Q. And who did those -- who did that request
13 come from?

14 **A. Ellis McSwain, the parole board chairman at**
15 **the time. And Kelly Dills, the board operations**
16 **manager at the time.**

17 Q. And did they give you any guidance about
18 how to make those changes?

19 **A. No. They just told me to make sure that**
20 **the information outlined these elements outlined in**
21 **this Senate Bill 590 were included in the reports for**
22 **the board. Incorporating them into our existing**
23 **worksheet appeared to be the best way to do that**
24 **because they're used to this already. So ...**

25 Q. I believe we discussed this a little bit

1 earlier. But are the topics in this worksheet required
2 to be included in this worksheet or asked about during
3 the interview? In a regular hearing?

4 **A. Everything accept the he will moments for**
5 **the juvenile life without.**

6 Q. Is there some, like, rules or regulations
7 or instructions from the parole board about what needs
8 to be included in this worksheet?

9 **A. Well, the parole board establishes what**
10 **they want in the reports. And if it's something -- if**
11 **they want something new added to the report then I**
12 **would add it to the worksheet. Other wise they**
13 **wouldn't know to put it in there. They determine, the**
14 **board determines what they want in there reports. And**
15 **so I try to provide my staff the tools in order to be**
16 **able to provide the most accurate information to the**
17 **board.**

18 Q. How far in advance do these interviews take
19 place?

20 **A. It could -- a month. I'd like them to**
21 **start getting read for their January docket in**
22 **December.**

23 Q. And who long after an interview is a
24 report usually completed?

25 **A. I'd imagine they start typing it hopefully**

1 right away while it's still fresh in their mind. It
2 might be that day. The next several days. It could be
3 a situation where the hearing's the next day. There's
4 a lot of hearings and some places it's a lot of work.
5 I mean, some places, the officers, it could be 25 a
6 month. Not these types of cases, but the more
7 high-risk, higher custody level prisons, they have
8 less.

9 Q. Do you ever attend parole hearings?

10 A. Yes.

11 Q. In your current position?

12 A. Yes. I don't conduct them, but I observe
13 them because I supervise the people that sit on the
14 panel. It's a board member, an analyst, and then the
15 parole supervisor. And I supervise all the parole
16 supervisors, so I periodically observe hearings.

17 Q. And what is the purpose of your
18 observation?

19 A. To ensure that the supervisor is using the
20 motivational interviewing techniques in conducting
21 themselves appropriately.

22 Q. But you said you never --

23 A. Conduct them --

24 Q. -- conduct them, right?

25 A. No.

1 Q. Does your role in hearings, like -- strike
2 that.

3 Have you ever attended a juvenile life
4 without parole hearing?

5 **A. No.**

6 Q. Are you responsible for the policies or
7 procedures of how a parole hearing is conducted?

8 **A. No.**

9 Q. Do you implement the policies and
10 procedures on how a hearing is conducted?

11 **A. No.**

12 Q. Would you describe your role relative to
13 the hearing itself as simply supervising what the
14 supervisor is doing during the hearing?

15 **A. I don't have a role in that. It's**
16 **the -- I really don't have a role in training them on**
17 **how to conduct the hearing, per se. I can provide**
18 **feedback to motivational interviewing techniques and**
19 **skills, which I've done.**

20 There are -- they learn how to conduct
21 appeal hearings by observing the parole board member
22 and the parole analyst.

23 Q. So what about the kind of policies and
24 procedures surrounding the circumstances of the
25 hearing?

1 Let me give you an example. So, for
2 example, are you at all involved in who can attend a
3 hearing as a delegate?

4 **A. No. I'm not involved in that. I know**
5 **that, you know, what's been outlined. What we've been**
6 **told. Who can attend. Who can't.**

7 Q. So you're not -- you don't play a role in
8 making those --

9 **A. Those decisions --**

10 Q. -- right?

11 **A. No.**

12 Q. So you're not deciding the policy?

13 **A. No.**

14 Q. But would you say you are -- you advise on
15 its implementation?

16 **A. I have to be aware. My staff has to be**
17 **aware. Because they need to know who is going to be**
18 **coming, entering the prison. Like, delegates,**
19 **and we have to be aware of what the parole board**
20 **protocol -- parole hearing protocol is.**

21 So implementing, yes. We know who can be a
22 delegate, who, you know, that it could be an attorney,
23 so, then, yes, we need to let the warden know on the
24 prison side who's going to be entering, who can enter
25 the prison.

1 **(Deposition Exhibit No. 5 was marked for**
2 **identification.)**

3 BY MS. ZIMMERMAN:

4 Q. The court reporter has just handed you
5 Exhibit No. 5.

6 Do you recognize this document?

7 **A. Yes.**

8 Q. So if you look at page two of the board
9 minutes attached to the email -- I'm sorry -- let me
10 back up.

11 So what is it that you're looking at.

12 **A. Oh, I'm looking at page one because I spent**
13 **so much time on this. Okay. What page do you want me**
14 **to look at?**

15 Q. So this is an email with attached board
16 minutes; is that correct?

17 **A. Yes.**

18 Q. So then if you look at page two of the
19 board minutes, under No. 4 --

20 **A. Okay.**

21 Q. -- it discusses delegates at hearings and
22 consistency.

23 **A. Uh-huh.**

24 Q. You'll see the action item is for
25 Jennifer Zamkus and Steve Mueller to discuss with you

1 approvals, roles, clearance for parole hearings; is
2 that correct?

3 **A. Yes.**

4 Q. And so I guess I'm just curious, you know,
5 what is your role?

6 Or why was this delegate issue brought to
7 you, and how does your position play into the delegate
8 issue?

9 **A. Well, I think there were some hearings that**
10 **people showed up at the prison and they weren't an**
11 **approved visitor.**

12 And so I go to all the wardens' meetings.
13 And so they wanted me to find out. And that's why we
14 had to establish criteria.

15 First of all, we thought all the prisons
16 should be consistent. And I found that some prisons
17 were letting delegates in that were not an approved
18 visitor, and vice versa. And so I talked to the
19 wardens about consistency in that area.

20 Q. Was this delegate issue related to juvenile
21 life without hearings or parole hearings in general?

22 **A. I mean, this isn't anything new. There's**
23 **21 sites with hearings. So I don't -- I don't know**
24 **that it was only juvenile life without.**

25 **I mean, we have people show up as**

1 delegates, and, I mean, that's probably not -- that
2 happens occasionally, that they haven't been approved,
3 I'm sure, on a regular basis, probably.

4 Q. So if issue occurs during the hearing, or
5 related to a hearing like this delegate issue that an
6 IPO has to deal with, those are then brought to your
7 attention; is that correct?

8 A. Not necessarily. They wouldn't all come to
9 my level. They would take care of it there at the
10 prison.

11 If their protocol was that they didn't
12 allow somebody in that wasn't approved, then that
13 would -- it may come to me, it may not, to talk to the
14 warden about.

15 That's all they know, that could be all
16 that they know that occurs at their site.

17 Q. So there may be some issues that are not
18 consistently addressed across all the sites?

19 A. Oh, definitely; yes.

20 Q. Including issues with juvenile life without
21 parole hearings?

22 A. Well, there may be inconsistencies between
23 all the sites, like this one, that they wouldn't allow
24 somebody in that hasn't been approved. And it's not
25 against policy. I mean, each warden establishes their

1 own policy. Not every policy. But they have
2 discretion on their entrance protocols.

3 I -- this -- we just wanted to -- we just
4 thought it would be better that all the institutions
5 would be on the same page, and people weren't telling
6 people different things. 'Cause offenders transfer
7 from site to site.

8 It was agreed that they would do their
9 records check when they got there, that they didn't
10 necessarily have to be approved ahead of time. But I
11 don't enforce -- I mean, I'm not over the wardens, so I
12 can only make suggestions at our meetings.

13 Q. Do you have any control over the -- the
14 parole board members docket of hearings?

15 A. No.

16 Q. Who does control that?

17 A. How many hearings are on a docket?

18 Q. Uh-huh.

19 A. In general?

20 Q. Yes, in general.

21 A. The parole board chairman dictates that.

22 Q. And then who sets the specific schedule?

23 A. Right now it's Robin Worder, parole
24 analyst.

25 Q. Is there a reason that you would be asked

1 to limit a docket to only have one juvenile life
2 without parole hearing per day?

3 **A. No. Those types of things are never**
4 **discussed with me. I mean, why there was only -- why**
5 **that decision was made? Or --**

6 **(Deposition Exhibit No. 6 was marked for**
7 **identification.)**

8 BY MS. ZIMMERMAN:

9 Q. I'm going to hand you what has been marked
10 as Exhibit 6.

11 **A. Okay.**

12 Q. Are you familiar with this?

13 **A. Yes.**

14 Q. Can you tell me what you're looking at?

15 **A. An email from Steve Mueller to me telling**
16 **me that -- or asking me to request that my staff try to**
17 **limit one juvenile life without hearing, if possible.**

18 So I'm assuming that I sent this out to my
19 staff. I didn't make this decision, but I would
20 then -- what I would normally do -- and I don't have
21 the emails -- ask my staff to do this, to abide by it,
22 if it's possible.

23 Q. So based on our earlier discussion it
24 strikes me that this doesn't necessarily fall under
25 your purview. So I guess I'm curious if you have any

1 understanding why his request was sent to you.

2 A. Oh. Well, so I could tell my staff. Is
3 that what you mean? 'Cause I'm the -- I supervise all
4 the parole offices.

5 And this direction was -- well, asking us
6 if they could to try to -- when they're working with
7 their docket, try to limit it to one per day. I
8 understand why, because they are complex.

9 Well, they're all complex and
10 time-consuming, but I'm assuming with these additional
11 factors they felt like they would take longer. And a
12 lot of the sites do just have one in-person day, so it
13 may not always be possible.

14 Did I answer your question?

15 Q. You did.

16 So just to make sure that I understand
17 that, you don't play a role in drafting any procedures
18 as to how the parole hearing --

19 A. Is conducted, yes.

20 I don't -- well, I don't supervise the
21 board or the analysts, so I don't have any input into
22 how they conduct the hearing.

23 Q. So your interaction would be more if
24 policies and procedures about the parole hearing were
25 changed that affected your staff --

1 **A. Right.**

2 Q. -- then you would communicate those
3 changes --

4 **A. Right.**

5 Q. -- or just forward on new procedures?

6 **A. Yes. My staff doesn't play the lead role
7 at the hearings.**

8 Q. Have we discussed every way in which you
9 play a part or role in parole hearings?

10 **A. I think so.**

11 Q. And in juvenile life without parole
12 hearings?

13 **A. Yes.**

14 Q. So I'm going to go back to when we were
15 discussing -- we were discussing Miller versus Alabama
16 and 590. I'm going to go back to where we were.

17 So did you have any involvement with the
18 drafting of Senate Bill 590?

19 **A. No.**

20 Q. Did you receive any training or attend any
21 seminars regarding the requirements of Miller,
22 Montgomery, or similar cases?

23 **A. No.**

24 Q. Aside from the worksheet and the work that
25 you did updating that, what steps did you take to

1 ensure compliance by your staff with these cases and
2 with Senate Bill 590?

3 **A. I looked at -- I reviewed the first couple**
4 **of prehearing reports. The first that we had of these**
5 **I reviewed, because I needed to send samples out. So I**
6 **looked at the first couple that were completed by my**
7 **staff and then used them as samples for other staff.**

8 Q. So you took on the task of ensuring that,
9 basically, that the worksheet was working?

10 **A. Yes. Correct.**

11 Q. And that the elements that needed to be
12 included were included in the reports?

13 **A. Yes.**

14 Q. But it was just at the beginning?

15 **A. Correct.**

16 Q. Like a kind of QC?

17 **A. Yes.**

18 Q. Are you aware of any third parties offering
19 training to the parole board or its employees on these
20 cases or Senate Bill 590?

21 **A. No.**

22 Q. And did you receive any training or attend
23 any seminars regarding the requirements of Senate Bill
24 590?

25 **A. No.**

1 Q. Is it your understanding that Senate Bill
2 590 was signed into law in July of 2016?

3 A. Yes.

4 Q. Did the parole board put in place a process
5 for handling hearings under Senate Bill 590?

6 A. Other than just what elements they needed
7 to take in consideration, my only role would be
8 attending meetings, and if there was discussion about
9 those things, 'cause I attend the analyst meetings,
10 too.

11 Q. Would you agree that Senate Bill 590 opened
12 up a new class of offenders eligible for parole
13 hearings?

14 A. Yes.

15 Q. And that these offenders then needed to be
16 notified of what the process was regarding their parole
17 hearings?

18 A. Yes.

19 Q. Were you involved in communicating that
20 process to the offenders?

21 A. My involvement was emailing this memo to my
22 staff, authored by Ellis McSwain, the parole board
23 chairman. It was actually sent by his office to my
24 supervisors.

25 (Deposition Exhibit No. 7 was marked for

1 **identification.)**

2 BY MS. ZIMMERMAN:

3 Q. It the document I just handed you -- or the
4 court reporter handed you, Exhibit 7 -- the memo that
5 you were talking about?

6 **A. It looks like a version of it. The one I**
7 **have is dated July 29th, but this is dated August 1st.**

8 MS. ZIMMERMAN: Can we go ahead and mark
9 the July 29th version.

10 THE WITNESS: They look the same.

11 (Deposition Exhibit No. 8 was marked for
12 identification.)

13 BY MS. ZIMMERMAN:

14 Q. So can you describe what this memo is?

15 **A. It was notification from the parole chair**
16 **to the board members, all the wardens, and my staff, my**
17 **supervisors, of Senate Bill 590. And giving them**
18 **direction on how offenders would go about petitioning**
19 **the board.**

20 Q. So this memo notifies the probation and
21 parole staff?

22 **A. Well, the supervisors, yes, staff.**

23 Q. As to what the juvenile life without parole
24 process is going to look like?

25 **A. Yes.**

1 Q. Did you prepare this memo?

2 A. No.

3 Q. Do you know who did?

4 A. Well, it says it's from the chairman.

5 Q. Was this memo provided to all levels of
6 probation and parole staff?

7 A. I would certainly hope so; yes.

8 Q. Was it provided to offenders?

9 A. Yes. I believe. I'm trying to -- I had
10 some other emails -- I believe this is the document we
11 used and we posted it in the housing units at the
12 prisons.

13 Q. This memo? Let me show you -- we'll mark
14 this Exhibit 9.

15 (Deposition Exhibit No. 9 was marked for
16 identification.)

17 BY MS. ZIMMERMAN:

18 Q. So if you could take a look at what the
19 court reporter has marked as Exhibit 9, can you tell me
20 what this document is?

21 Are you familiar with this document?

22 A. Oh, yes. This is from the warden.

23 I thought I -- did you make copies of
24 everything? 'Cause I thought I had some more emails,
25 in my bag, that I brought, in the stuff that I brought.

1 MR. CRANE: I will say that there were four
2 emails that were forwarded to me that I withheld as
3 documents that you sent to me.

4 THE WITNESS: Oh, okay.

5 Yes. I recognize this.

6 This warden took it upon himself to send
7 something to the offender population at JCCC. And then
8 this was sent out to give direction to the other
9 wardens, that this was something that they could use so
10 they wouldn't have to create a document to post in the
11 housing units and the offender library providing them
12 instruction.

13 BY MS. ZIMMERMAN:

14 Q. So to clarify, the memo that we looked at
15 that is marked 7 and 8 --

16 **A. Yes.**

17 Q. -- that is a memo prepared by the chairman
18 directing the parole -- the Division of Probation and
19 Parole about this new process?

20 **A. Yes.**

21 Q. Whereas, this memo that we're looking at in
22 Exhibit 9 --

23 **A. Yes.**

24 Q. -- is something that was posted?

25 **A. Posted, yes.**

1 Q. And who prepared this document?

2 A. Jay Cassidy. He's the warden at JCCC.

3 Q. Based on this memo, did you prepare
4 additional memos that were posted at other
5 institutions?

6 A. I did not.

7 Q. You did not work with Kelly Dills to
8 prepare any memos to notify offenders?

9 A. I don't remember. I mean, I remember this.
10 I remember this warden's memo. And I thought, well,
11 it's a good sample, everybody else could post this same
12 thing. It would give them an idea. Because we knew
13 that the inmate population had to be notified in some
14 way.

15 But I don't remember what else. That's why
16 at first I thought maybe that's what this was.

17 (Deposition Exhibit No. 10 was marked for
18 identification.)

19 BY MS. ZIMMERMAN:

20 Q. Are you familiar with this document?

21 A. Yes. I see this email came from me.

22 I don't remember doing all this. I didn't
23 have this saved.

24 There's another memo.

25 Q. Yeah.

1 A. So I'm assuming I must have used a little
2 bit of all this.

3 Q. So I was specifically curious about the
4 decision referenced in here to not mention petitions in
5 the memo.

6 Do you recall making that decision?

7 A. I'm trying to remember.

8 I'm assuming there must have been a lot of
9 confusion about the petitions. And I'm assuming I must
10 have thought it was easier just to say -- or, you know,
11 let the offenders know that if they had a sentence like
12 this that they should just contact their IPO who could
13 explain everything in detail to them about, you know,
14 what they needed to do.

15 I'm -- I -- I'm just assuming. I don't
16 remember the exact conversations. But there must have
17 been a lot of confusion about this. About who did what
18 with the petitions. And that I felt like it would just
19 be easier that they contact their IPO who could give
20 them direction.

21 Because there's usually a lot of issues
22 with that, like, with case management, and the DAI
23 staff not really understanding. They could confuse the
24 issue even more.

25 I don't remember exactly. I'm assuming

1 this. Because a lot of times they'll ask case managers
2 things, and they don't give them the right information,
3 and then -- well, that's kind of what happened. You
4 know, that happens a lot. And then my staff has to
5 clarify.

6 Q. So you wanted to be able to -- well, never
7 mind.

8 Is it your understanding that Senate Bill
9 590 requires offenders to petition for a parole
10 hearing?

11 **A. Yes.**

12 Q. Is that different than how typical parole
13 hearings work?

14 **A. Yes.**

15 Yeah, I do remember there were a lot of
16 questions from my staff about this.

17 And then I thought there was another email
18 that I had sent that said, "This is just a sample. It
19 doesn't have to be this particular one."

20 MR. CRANE: Can we go off the record for a
21 second?

22 (An off-the-record discussion was held.)

23 BY MS. ZIMMERMAN:

24 Q. So I know your recollection at this time is
25 a little vague, but as far as you remember it, the

1 parole board chairman notified everyone of these
2 changes in that memo that we looked at; is that
3 correct?

4 **A. Yes.**

5 Q. And Jay Cassidy, one of the wardens at an
6 institution posted a memo about the process in his
7 institution, correct?

8 **A. Yes.**

9 Q. And you and Kelly worked up a similar memo
10 to be posted at other institutions; is that correct?

11 **A. Yes.**

12 Q. And those memos posted in the institutions
13 were to notify the offenders about this new process,
14 and if they qualified --

15 **A. If they're qualified.**

16 Q. -- to reach out to their IPOs?

17 **A. Correct.**

18 Q. And what was the reaction to this sharing
19 of information?

20 **A. From who? Sorry.**

21 Q. So did you get feedback from the IPOs as to
22 what they were supposed to do with their training?

23 **A. Oh, yes. Well, I'm sure there were a lot**
24 **of questions. And so I sent several emails out**
25 **clarifying. And I sent an email with the list of the**

1 **offenders that met the eligibility. Or at least were**
2 **sentenced under those parameters. And I have that. I**
3 **sent that out.**

4 Q. Was that included when you sent out the
5 worksheet?

6 Does that sound familiar?

7 **A. Yes. Uh-huh.**

8 Q. So part of this process we discussed is
9 that offenders have to petition for a parole hearing?

10 **A. Correct.**

11 Q. Is there a form petition that they can use?

12 **A. Yes.**

13 Q. If you look at the Exhibit No. 7.

14 **A. Yes.**

15 Q. Page three, is that the form of the
16 petition?

17 **A. Yes.**

18 Q. Did you create that?

19 **A. I did not.**

20 Q. Do you know who did?

21 **A. No. I can assume. I'm assuming that**
22 **Kelly Dills did. But I'm not ... I hope I didn't.**

23 (Deposition Exhibit No. 11 was marked for
24 identification.)

25 BY MS. ZIMMERMAN:

1 Q. Are offenders required to use that
2 petition?

3 **A. No.**

4 Q. The court reporter has just handed you
5 what's been marked at Exhibit 11.

6 Are you familiar with that document?

7 **A. Yes.**

8 Q. Is this the email you referenced earlier
9 that indicates this is not the petition --

10 **A. Yes.**

11 Q. -- required to be used?

12 **A. Uh-huh.**

13 Q. What date was this email sent?

14 **A. December 6th, 2016.**

15 Q. By this point had offenders already filed
16 petitions for parole hearings?

17 **A. I'm assuming so.**

18 Q. But at this point you were still finalizing
19 some of the procedures in how to do the petitions?

20 **A. Yes. Because my email providing the
21 worksheet was dated -- or was in August, so ...**

22 Q. If an offender does not use this form
23 petition, how do they know what needs to be included in
24 their petition?

25 **A. Does the memo that I sent out, the ones**

1 **that were posted in the housing units? I don't have**
2 **that with me. I don't know if it says --**

3 Q. I also don't have it with me.

4 If that information is not contained in
5 that memo, do you know, are you aware of how that
6 information would be communicated to the offenders?

7 **A. The only way would be my staff.**

8 Q. Were the IPOs given any formal training on
9 this new process?

10 **A. No.**

11 Q. So at this point we've discussed the
12 petition, correct?

13 **A. Yes.**

14 Q. And the prehearing worksheet?

15 **A. Yes.**

16 Q. And your role in the in parole hearings,
17 correct?

18 **A. Yes.**

19 Q. After the hearing, are you aware of how the
20 board votes on whether to release an offender?

21 **A. No. I'm not involved in those discussions.**

22 **I don't vote. I've never voted. I'm not part of a**
23 **panel that votes.**

24 Q. Are you familiar with what's called a board
25 action sheet?

1 **A. Uh-huh. Yes, I am.**

2 Q. Is that used to help with the
3 decision-making for parole board members?

4 **A. It's where they document their decision.**

5 **Their individual decisions.**

6 Q. Are you aware of anything being done
7 differently with regards to the board action sheet and
8 the documenting of decisions for juvenile life without
9 parole hearings?

10 **A. You mean would the documentation be any
11 different on those board action sheets?**

12 **I know there have been discussions, but I
13 don't know -- I do not -- I don't remember. I don't
14 know.**

15 **(Deposition Exhibit No. 12 was marked for
16 identification.)**

17 BY MS. ZIMMERMAN:

18 Q. The court reporter has just handed you
19 what's been marked as Exhibit 12.

20 Are you familiar with this document?

21 **A. No, I don't remember seeing this.**

22 **(Deposition Exhibit No. 13 was marked for
23 identification.)**

24 BY MS. ZIMMERMAN:

25 Q. You should now be looking at what's been

1 marked as Exhibit 13.

2 If you take a look on the first page,
3 No. 3, do you see the sentence that reads, "She advised
4 that Michelle Kasak and her staff created a worksheet
5 to explain the elements required for consideration
6 during deliberation?"

7 Do you know what worksheet she's referring
8 to?

9 **A. I'm assuming the parole hearing worksheet.**

10 Q. So that is not referring to Exhibit 12?

11 You're not familiar with that?

12 **A. No. I don't remember that. I'm assuming**
13 **that it means the interview and assessment worksheet.**
14 **This isn't -- this doesn't look like -- this looks like**
15 **a worksheet for the board and not my staff.**

16 Q. Okay. So safe to say you did not -- you
17 don't believe you created Exhibit 12?

18 **A. No.**

19 Q. And do you know who did?

20 **A. No.**

21 Q. So I want to shift gears a little bit, and
22 discuss the policies and procedures related to parole
23 hearings both in general and JL WOPs specific.

24 **A. Okay.**

25 Q. You mentioned earlier that your current

1 position, in part, includes creating and revising
2 policies and procedures; is that correct?

3 A. **Correct.**

4 (Deposition Exhibit No. 14 was marked for
5 identification.)

6 BY MS. ZIMMERMAN:

7 Q. I'm handing you what's been marked as
8 Exhibit 14.

9 A. The Blue Book.

10 Q. Yes. Are you familiar with this document?

11 A. Yes.

12 Q. What's the purpose of this document?

13 A. This is what's provided to the offenders so
14 they understand the hearing process. The decisions.
15 It's basically all about the parole process, when
16 they're in the institution, and the protocols, and ...

17 Q. So is this document -- would you describe
18 it as offender based?

19 A. Yes.

20 Q. It's not the procedures that staff
21 necessarily has to engage in?

22 A. Right.

23 Q. Did you draft --

24 A. No.

25 O. You weren't involved at all with its

1 preparation?

2 A. In the past, I have looked at this. I have
3 maybe made suggestions on something that needed to be
4 updated, but I wasn't responsible for making the
5 updates.

6 (Deposition Exhibit No. 15 was marked for
7 identification.)

8 BY MS. ZIMMERMAN:

9 Q. I'm now handing you what's been marked as
10 Exhibit 15.

11 Are you familiar with this document?

12 A. Yes.

13 Q. Can you describe what this is.

14 A. It's our table of contents for Probation
15 and Parole procedures. The procedures that govern
16 Probation and Parole within the department.

17 Q. And so what's the purpose of this document?

18 A. This provides direction and instruction to
19 Probation and Parole staff on how to conduct their
20 duties.

21 Q. So as compared to the Blue Book, this is
22 more staff --

23 A. Yes. This is for staff. This is all our
24 Probation and Parole policies and procedures.

25 Q. Is this an all-inclusive document? For

1 example, if a staff member needs guidance on how to do
2 their job --

3 **A. Yes.**

4 Q. -- would they look here?

5 Or are there other places they would look
6 as well?

7 **A. No, they would look here. My staff look at**
8 **chapter 6. All of chapter 6 applies to my staff.**

9 **Other than memos or emails, chapter 6**
10 **governs what we do, what the institutional parole**
11 **offices do.**

12 Q. Did you draft any of the -- either this
13 table of contents or the policies contained in this
14 document?

15 **A. Not the table of contents, but I have made**
16 **suggestions to some of them in chapter 6.**

17 Q. But you're not on any type of committee?

18 **A. The manual work group does that, and I am**
19 **not on that group. I can make suggestions.**

20 Q. Have you even been on the manual work
21 group?

22 **A. No. I review it to make comments. But we**
23 **all are. I mean, they're sent out for anybody to make**
24 **comments and then they're finalized with they manual**
25 **work group.**

1 Q. And when you make comments on proposed
2 revisions, is that based on anything in particular?

3 **A. Well, there could be some terminology in**
4 **the policy that's not correct. So it's based on**
5 **business practices, how we do things in our offices.**

6 Q. Are you familiar with how frequently these
7 policies are updated?

8 **A. Yes.**

9 Q. Is there a policy in place for how often
10 they need to be updated?

11 **A. No.**

12 Q. Are they only updated when something
13 changes?

14 **A. Yes.**

15 Q. Are all changes in the parole procedures
16 reflected in these policies?

17 **A. No.**

18 Q. So when you said earlier if an IPO was
19 wondering how to do some part of their job, if they
20 were to look in these policies, it may not be the most
21 current version of how they're supposed to do their
22 job?

23 **A. Correct.**

24 Q. Are you aware of any juvenile life without
25 parole processes included in these procedures?

1 **A. No. I don't remember. I don't**
2 **specifically remember making any changes myself.**

3 Q. So as far as you are aware, if an IPO had
4 questions about how to conduct a juvenile life without
5 parole hearing, or was trying to identify what the
6 process is, what's different, where would they look for
7 those answers?

8 **A. They would have to talk to their supervisor**
9 **who, hopefully, would be able to explain that to them.**

10 **Because these aren't done at every site. I**
11 **feel like the sites that do them have a pretty good**
12 **understanding of what they should be doing, 'cause**
13 **they -- they're doing them more now on a more regular**
14 **basis.**

15 **So they would consult with their**
16 **supervisor, and I would hope their supervisor, if they**
17 **saw that they had one of these on their caseload, that**
18 **they would provide them the instruction then.**

19 Q. So you made that comment that you have the
20 impression that they have a good idea of what they're
21 doing with these procedures now, correct?

22 **A. Yes.**

23 Q. And that's based on having conducted
24 multiples of these at this point?

25 **A. Yes. And getting feedback from the board.**

1 **I mean, if they don't have something in the report, the**
2 **board analysts tell them?**

3 Q. So the board member can provide feedback on
4 the report if something's missing?

5 **A. Yes. And they do.**

6 Q. Are you aware of that happening in juvenile
7 life without parole instances?

8 **A. Not specifically, no. I have not been made**
9 **aware of that that I know of.**

10 (**Deposition Exhibit No. 16 was marked for**
11 **identification.**)

12 BY MS. ZIMMERMAN:

13 Q. I'm showing you what's been marked as
14 Exhibit 16.

15 Are you familiar with this policy?

16 **A. Yes.**

17 Q. Can you tell me what this policy is about?

18 **A. It provides instruction to the**
19 **institutional parole officer on what goes into a**
20 **prehearing report. The elements that need to be**
21 **included in each section.**

22 Q. To your knowledge, is this the most recent
23 version of this policy?

24 **A. I believe it's in Thursday's draft version.**
25 **But it's a long process to update our policies and**

1 procedures.

2 Q. About how long would you say it takes?

3 A. Well, now they have to go through legal.

4 Q. Was that not always the case?

5 A. No. For a short time, no. So that really
6 bogged down the process, because we don't have a lot of
7 people in our legal unit.

8 Q. When did that change?

9 A. It could take months. Oh, not recently. I
10 don't know, a couple months ago maybe.

11 Q. And prior to that legal was not reviewing
12 every policy revision?

13 A. Correct.

14 O. Were they reviewing any policy revisions?

15 A. I think some departmental procedures,
16 institutional services procedures, like, Division of
17 Adult Institutions. I'm really not sure what they
18 reviewed, and what they didn't, between all of our
19 divisions.

20 Q. In the exhibit in front of you, No. 16, is
21 there anywhere in that policy that provides guidance on
22 juvenile life without parole prehearing report
23 requirements?

24 A. NO.

25 (Deposition Exhibit No. 17 was marked for

1 identification.)

2 BY MS. ZIMMERMAN:

3 Q. I'm going to hand you what's been marked as
4 Exhibit 17.

5 Do you recognize this?

6 A. Yes.

7 Q. Can you describe what it is?

8 A. It's possible questions the panel could ask
9 the offender during the hearing. And then just general
10 overview of the protocol.

11 Q. What was the purpose of this document?

12 A. To give staff more direction on -- new
13 board members, to give new board members direction on
14 what types of questions to ask. Because there's not
15 a -- there's not a script.

16 So this was -- this has -- I mean, this has
17 been around for a long time. Versions of this, for a
18 very long time, to give the new board members and
19 analysts, and new supervisors, my staff, to help them
20 know what type of things to ask. And then what to say
21 at the beginning of the hearing. You know.

22 Q. So you mentioned that this has been around
23 for a while, correct?

24 A. Versions of it. 'Cause when I first got
25 this job, I saw -- I shared this with some supervisors

1 to help them with what questions to ask.

2 Q. So this is not specific to juvenile life
3 without parole hearings?

4 A. No. Actually, I found -- what I'm talking
5 about -- I found in my predecessor's stuff, and I only
6 had a hard copy. I found it in a file somewhere, and I
7 actually had the board secretary -- the chairman's
8 secretary type them out. 'Cause I thought it should be
9 electronic. That way, I could share it with my staff.

10 Q. If you'll look at the page labeled parole
11 hearing protocol, it's dated May 2017, correct?

12 A. Yes.

13 Q. Do you know if changes were made on that
14 date compared to prior versions?

15 A. Yes, I'm sure there were. I'm sure -- it
16 was a pretty outdated document that I originally had,
17 so I'm assuming there were questions added.

18 Q. Did you make those changes?

19 A. I may have made suggestions. And I'm
20 looking to see if I remember any of them. If I did, it
21 was just to give my staff direction, provide them
22 direction on how to conduct a hearing.

23 Q. Are these -- on the questions specifically,
24 are these required questions for a hearing?

25 A. No. Huh-uh, they are not.

1 Q. How about the protocol, is that the
2 required format?

3 **A. I believe so.**

4 Q. So it's more than just a suggested way to
5 conduct the hearing?

6 **A. Yes. Correct. Or the questions are
7 suggestions.**

8 Q. Does the protocol leave some discretion to
9 the parole board members in how they conduct their
10 hearing?

11 **A. I believe that they need to cover every one
12 of these things.**

13 Q. But, like you said, there's no script?

14 **A. Right.**

15 Q. So we discussed that part of your position
16 is creating and revising procedures and policies. We
17 looked at the table of contents for some of those
18 policies and procedures, and you indicated that you're
19 not on the committee that drafts those, correct?

20 **A. Right.**

21 Q. Are there other policies that you have
22 drafted that relate to juvenile life without parole
23 hearings that we haven't discussed?

24 **A. Not that I know of.**

25 Q. When you indicated that part of your job

1 responsibility was creating and revising these policies
2 and procedures, was that more written policies and
3 procedures?

4 Or you determined kind of unwritten
5 practices around these more formal policies and
6 procedures?

7 Or both?

8 **A. Both.** Well, for example, when the board
9 makes a decision, on what type of report is required,
10 any decisions that are made by the board, I feel like
11 it's my responsibility to then make those changes to
12 the policy that affect our staff.

13 And so I would make that proposal to that
14 group, to our policy group. Anything -- well, there's
15 a representative in my region. Every region has a
16 representative on that committee.

17 And so when the board makes a decision
18 something, I look to see if we address that in policy
19 anywhere, or if we need to. And then I usually reach
20 out to my region's rep -- representative -- that's on
21 the manual committee. And say "This needs to be
22 changed the next time you update this procedure." Or,
23 depending on the change.

24 Q. Would you say that your recommendations are
25 based on what the parole board has told you changes

1 are?

2 **A. Yes.**

3 Q. They are less -- unless you have decided
4 the change needs to be made and recommended it to the
5 committee?

6 **A. Right. It's changes that the board has**
7 **made. Like, maybe format in reports and different**
8 **things.**

9 Q. [REDACTED].

10 **A. Yes.**

11 Q. Is part of your responsibility disciplining
12 him if issues arise?

13 **A. He has -- he has a direct supervisor.**
14 [REDACTED] **is his direct supervisor. She's the**
15 **DA II. But like with any other of my staff, if**
16 **something comes straight to my attention, and I'm**
17 **involved with it, then I may do the discipline, yes.**
18 **Instead of having the person that doesn't -- hasn't**
19 **been directly involved with the information, yes, I do**
20 **that.**

21 Q. Are you aware of a complaint to the Office
22 of Professional Standards against him?

23 **A. Yes.**

24 Q. Was the issue reported directly to you?

25 **A. Well, a letter was written.**

1 Q. And you reviewed that letter?

2 A. Yes.

3 **Are you talking about the letter from**

4 **Norman Brown?**

5 Q. Yes.

6 A. Yes. The one dated May 10th, 2017?

7 Or the one dated June 13th, 2017?

8 Or the email to the director?

9 Q. I was -- now I'm curious. I was referring
10 to the email directly to the director.

11 A. Oh, okay, yes, I have that. Okay. And so
12 then the director submitted it for investigation, and
13 it was returned for the supervisor to handle.

14 Q. And how was it handled?

15 A. I entered a negative log entry.

16 Q. What does that mean?

17 A. Well, I discussed the issue with him. He
18 denied it. And I explained how, if this happened, that
19 it was not appropriate, of course. But he denied that
20 it happened.

21 The offender said that he said something to
22 him, but he denied the allegation.

23 Q. Is that something that you brought with you
24 in response to the subpoena?

25 A. Yes.

1 Q. Would you mind handing it to me to mark?

2 A. Sure.

3 (Deposition Exhibit No. 18 was marked for
4 identification.)

5 THE WITNESS: I think there's two different
6 things.

7 BY MS. ZIMMERMAN:

8 Q. So aside from this incident occurring in
9 July, was there another?

10 A. Yeah. Were you talking about the incident
11 in May?

12 Q. What is the incident in May?

13 A. In May, he wrote a letter. I'm assuming it
14 went to the parole board. It did. Mr. Brown a letter
15 on May 10th. And the chairman referred it to me, as a
16 supervisor, to handle.

17 And so I responded saying that I discussed
18 it with him, as I did, and he denied the allegations.

19 And I had [REDACTED] do a memo in response to that.

20 Q. Would you provide me with those materials
21 so I can mark them?

22 A. Yes. I think this is everything.

23 (Deposition Exhibit No. 19-21 was marked
24 for identification.)

25 BY MR. ZIMMERMAN:

1 Q. So can you describe what the complaint is
2 that is referenced in these Exhibits 19 through 21?

3 A. On May 10th, Offender Brown alleged that
4 [REDACTED] was talking to him in front of other
5 offenders. He felt like he was discussing his case
6 openly in front of other offenders.

7 Q. Did this result in any discipline of
8 [REDACTED]?

9 A. No. I discussed it with Aaron, and he
10 provided me with a memo explaining -- or not explaining
11 what happened -- but explaining any conversation that
12 he had with Offender Brown, Mr. [REDACTED] said that he
13 spoke with him in person each time, but not in front of
14 other people.

15 He says at so point did the discussion have
16 to do with anything with regard to Brown's hearing or
17 attorney.

18 He denied it. So I discussed it with him.
19 And let him know that that behavior would not be
20 appropriate.

21 Q. Are you aware of any misconduct happening
22 during parole hearings?

23 A. Misconduct of my staff during parole
24 hearings? No. No.

25 (An off-the-record discussion was held.)

1 MR. CRANE: Let's go back on the record.

2 BY MS. ZIMMERMAN:

3 Q. Do you want to amend your answer to whether
4 you're aware of any misconduct about parole hearings?

5 A. Yes.

6 Q. What are you aware of?

7 A. There was a situation where a board member
8 and analyst may have been discussing things or talking
9 about things that they shouldn't.

10 Q. And how did you become aware of that?

11 A. It was happening in front of my staff. But
12 my staff -- all my staff didn't know what was going on.

13 Q. So it's not that your staff reported it to
14 you?

15 A. No, they didn't report it to me. And they
16 all didn't know it was going on.

17 Q. So --

18 A. But it came to light because they were
19 present and they were questioned about it by
20 investigators.

21 Q. Is that when you became aware of what was
22 happening, during the investigation?

23 A. Uh-huh. Yes.

24 Q. Were you questioned as part of the
25 investigation?

1 **A. No, I was not.**

2 Q. And you didn't have any other information
3 about what was happening?

4 **A. No. I -- I mean, I read the investigative**
5 **report after it was concluded, because my staff were**
6 **part of the investigation.**

7 But, no, I had no idea. And some of them
8 didn't. They were oblivious to it. And some knew but
9 were afraid to say anything.

10 Q. Are you aware of any other misconduct at
11 parole hearings?

12 **A. Not by my staff. And I don't -- hmm ...**
13 **I'm trying to remember if there's anything.**

14 There was an incident -- but I don't
15 remember all the details -- of one of the board members
16 making a comment in front of a new field probation and
17 parole officer, because they observe hearings as part
18 of their new staff checklist. I don't remember what
19 the comment was.

20 Q. Was it an offensive comment of some type?

21 **A. Yes. I believe the person took it as that.**

22 Q. Do you know who made the comment?

23 **A. It was a male board member. But I'm trying**
24 **to remember. I'm gonna say it was -- was it Gary? I'm**
25 **thinking maybe Gary Dusenberg.**

1 Q. So aside from the misconduct we talked
2 about where there was an investigation, and the comment
3 by Gary Dusenberg, are you aware of any other
4 misconduct in parole hearings?

5 A. I have had my staff tell me things that
6 they may not think was appropriate, or felt comfortable
7 with, and I report all of those.

8 And if there's any issues they pull the
9 tapes and listen to them. Steve Mueller, or
10 Kelly Dills, and the chairman. But everything, to my
11 knowledge, has been un founded. I don't know what
12 happens with it after that. But if I -- my staff tell
13 me anything, I always -- I always forward the
14 information.

15 And to my knowledge, nothing's been -- and
16 I wouldn't even know if there was an investigation.
17 And who's to say it was misconduct. Eating Kruncher's
18 potato chips is not appropriate probably, but it's not
19 misconduct.

20 Q. So that was going to be my next question:
21 Can you give me examples of what kind of things raised
22 concerns that your staff were bringing to your
23 attention?

24 A. That.

25 Q. Anything else you remember?

1 **A. Their style of interviewing.**

2 Q. By "style" you mean --

3 **A. Not misconduct. Just --**

4 Q. Maybe a more aggressive style?

5 **A. No. Maybe just asking the same question**
6 **over and over again.**

7 Q. I can see how that would be frustrating.

8 **A. I don't recall anything else that rose to**
9 **the level of misconduct that I've reported.**

10 And then when I report it, I don't know
11 exactly what happens. And I honestly -- I don't even
12 remember why I knew about the one I mentioned earlier,
13 who brought it to my attention in the first place.

14 Q. So unless it has to do with discipline on
15 your staff you wouldn't be involved?

16 **A. I would never be involved. Right. And**
17 **that's kind of why I almost forgot about the other**
18 **thing. Because it wasn't -- it's not anything that**
19 **they did.**

20 MS. ZIMMERMAN: Let's go off the record
21 real fast so I can look at my notes.

22 (An off-the-record discussion was held.)

23 BY MS. ZIMMERMAN:

24 Q. A couple more questions to wrap it up.

25 Are there any written juvenile life without

1 parole policies that you've drafted that we have not
2 discussed today?

3 **A. No.**

4 Q. Have you made any recommendations to the
5 manual work group for juvenile life without parole
6 policies that should be included in that large
7 handbook?

8 **A. I have not.**

9 Q. Are there any unwritten procedures or
10 practices that you were involved in developing related
11 to juvenile life without parole hearings that we have
12 not discussed today?

13 **A. No.**

14 MS. ZIMMERMAN: That's all I've got.

15 MR. SPILLANE: I have nothing.

16 MR. CRANE: I do not.

17 MR. SPILLANE: About signature, you have
18 the option of reading this and making sure that there
19 were no typographical errors and then signing it. Or,
20 you can just trust the reporter got it down and we can
21 waive signature.

22 That's your call. The normal practice has
23 been to waive signature, but it's up to you.

24 THE WITNESS: Yeah, I will waive.

25